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Report of the Commission
to Investigate the Oregon...

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REPORT OF THE COMMISSION

To Investigate The
Oregon State Penitentiary



MEMBERS

L. J. WENTWORTH, PORTLAND, OREGON
E. E. BRODIE, OREGON CITY, OREGON
F. W. MULKEY, PORTLAND, OREGON
Chairman

Dated
Portland, Oregon,
January 26, 1917.

*Report of The Commission
Appointed to Investigate the
Oregon State Penitentiary*

To the Honorable,
The Oregon State Board of Control:
Gentlemen:

The first proposition submitted to this commission by your honorable body was in effect that the commission outline an administrative system in reference to penitentiary treatment that shall be in accord with modern thought on the subject of penology. If this suggestion be given comprehensive treatment it would include the entire field of criminology and penology. It would include therefore every other problem submitted by your honorable body and contained in the separate propositions herein enumerated as well as many others.

Modern thought with reference to penology embraces all the phenomena of crime and all plans of social defense against crime. The different schools that obtain today with reference to criminal theory and that furnish the basis for the state's activities in defense of the social order are designated as the classic; the neo-classic and the positivists, or the anthropological or sociological school, also called the Italian school. The schools just named are given in the order of their appearance and the Italian school is that accepted by modern tendency. The penal systems of today, especially with reference to criminal codes, are largely predicated on the classic or neo-classic theory.

A narrower treatment of the proposition now under consideration would concern itself only with prison organization and discipline; while the more comprehensive treatment would contemplate a discussion of police detection, a penal code, criminal procedure, penal substitutes, criminal asylums, penitentiaries, work houses, houses of detention, houses of correction, county jails, juvenile courts, paroles, pardons, and a correlation of systems.

The criminal problem cannot be solved by penitentiary organization and discipline; for the penitentiary system represents but a step in the process of social defense. It must have as an aid a sound system of criminal law both as to substance and procedure; a system of penal substitute and a plan

whereby a discharged prisoner may be returned to society under a supervision that shall act as a transition between his prison life and freedom. Therefore, for your commission to concern itself only with prison discipline or organization, would in no way suggest an ultimate solution of the criminal problem as proposed by modern penology. Hence, in view of what has just been said, the commission under this head treats of the general tendencies of modern penology, leaving for separate treatment prison organization and discipline.

The classic theory was the basis of the penology of the century just passed. Punishment for crime was a uniform sentence of a fixed term for a like crime. "It presumed that those guilty of the same crime must have been equally free agents and each crime was presumed to involve a like moral freedom and to impose a like responsibility." This system did not take into account the criminal. It considered only the social and material seriousness of the crime. The impression this made upon the criminal is well expressed by Liszt. He says: "He (the criminal) knows just how far he may venture within the law; and if he brings the arm of the law down upon him, he knows precisely the risk he incurs. The main point is to be a good sport and a good loser and consider the many successes as against the occasional failure. We are now beginning to recognize that in a situation of this kind the odds of the game do not favor society."

Of the classic system Saleilles says: "This penal system had the great merit of treating all alike and the still more indisputable merit of forming an adequate check against arbitrary sentences. But the equality thus realized may well be considered most unfair in that it treated all men as mere digits. As applied to criminals, this equality in terms of punishment, commonly ran the risk of introducing a cruel and intolerable injustice, in that it brought together in perilous promiscuous association those guilty of the same crime, whether they happened to be first offenders, habitual criminals, men blinded by sudden passion of the moment, thorough degenerates, those unaffected in character by their crime, or those whom the system had thoroughly contaminated and who became the means of corrupting their associates. For all the punishment was similar or nearly so and upon this feature the system prided itself. But the equality was only in name and in its popular appeal, for the equality that justice demands

is an equality of treatment for the same established degree of criminality."

"As a system recognizing responsibility in its objective aspects alone it considers only the material injury inflicted and in no measure the state of mind of the transgressor."

The classic system assumes a fictitious responsibility: this largely accounts for the force of many jury trials in criminal cases. A jury will not submit to the subtleties of legal assumptions. As Saleilles says: "They might be informed that every man accused of the same crime had a like responsibility and consequently should be given like punishment. But they were brought face to face with the defendant as he disclosed the details of his life, the impulses to which he was subject, the delusions that distorted his outlook, and the jury recognized that, quite apart from questions of insanity, there may be degrees of freedom and consequently degrees of responsibility. But having no power to grade the responsibility, since the law made no such provision, they simply found for acquittal."

The neo-classic system established or rather recognized diminished responsibility, but it sought to mitigate punishment because of such diminished responsibility.

Of the neo-classic school, Saleilles in his book, "The Individualization of Punishment," page 83, says: "The consequences of the new conception of responsibility are clear. If you start from the concrete question of the freedom of the will and determine to what degree a criminal act has been committed in full freedom, you necessarily reach two conclusions: the first to exempt from punishment when it is established pathologically or psychologically that freedom of the will was absent; and the second, to reduce the punishment when it is established that the defendant exercised only a partial freedom." On the same page he says of this theory of responsibility, evidently from the standpoint of the new or Italian school: "The modern view regards the criminal as even more of a menace than the man suffering from disease or from tendencies to insanity. It would appear that the more dangerous he is, the more promptly he is restored to society. And yet this result seems to follow from an individualization based upon responsibility."

The Italian School.

The most distinguished representatives of this school are Lombroso, Ferri and Garofalo. The Italian

school rejects the doctrine of the freedom of the will. With them crime is a natural product, a result of purely natural factors. With Lombroso the factors are almost wholly anthropological. With Ferri they are more particularly sociological. Of this school Saleilles says, page 116: "Now let us consider the proposals of the Italian school and the necessary logical conclusions to which it is committed. Man cannot control the directions of his impulses or of his moral propensities. According to Lombroso crime is the inevitable issue of a pathological temperament, and according to Ferri it is the result of the social environment and economic conditions governing human existence. Hence punishment can have no social status either as a penalty or as disapproval. Atonement can only be exacted for a wrong which one was free to avoid, and reproof can be demanded only for evil issuing from an act of free will. Punishment is only a means of public defense and security, analogous to the preventive measures taken against dangerous animals or insane men. Moreover there are no repressive measures; there are only measures of prevention to check the repetition and dissemination of crime. What is dangerous in the criminal and makes him a menace to society is not the crime once committed but the criminal himself: his personality, his temperament, ever leading him to further crime; the latent fundamental impulses which, when acted upon by circumstances, may break out into murder, theft or offenses against morality. How is society affected by the punishment of the crime or the failure to punish it? The evil done belongs to the past. Nothing remains but to repair the injury inflicted, if this is possible. The greater concern is to prevent crime in the future; and for this the criminal instinct in the criminal must be checked or suppressed, or if, as is most commonly the case, such a prospect seems unrealizable, it is the criminal who must be disposed of, as would be done in the case of a plague or a dangerous animal. It is with reference to evil potentiality, to the dread he arouses that prospective measures must be framed. They must be directed to reform in so far as any measure of improvement yet remains possible or, if none is possible, to elimination. Such approximately is the logical position of the Italian school.

"In this view the crime committed has an altogether different status than that assigned to it by the classic school. It is no longer the fixation

point of punishment; it ceases to be the punishable factor. The older view recalls the primitive theory of the right of vengeance; as though one turned against the author of the injury to make him expiate it by subjection to punishment. Crime has no status except as a symptom of the criminal instinct of the agent, as an indication of his dangerous character. There are no punishable actions, only individuals to be placed beyond the range of doing harm; and crime serves to identify them."

Such is the theory of the new penology. That it is being applied in prison administration is evident from the following taken from the 1916 report of the Board of Control and officers of the Michigan State Prison:

"During the last biennial period, ending June 30, 1914, the Michigan State Prison was transformed from the Old to the New—from the contract system to the State Account System—from the old penology to the new penology. It was during this preceding biennial period that the management of the Michigan State Prison decided upon and established policies for the future control and development of the institution. It was during this period that a system was evolved to correct the criminal tendencies in a man, and restore him, rebuilt, to citizenship. The old penology, moved by a lingering spirit of revenge, demanded punishment for wrong doing, but under the new, revenge is no longer recognized as a motive. A prison sentence is advocated as a deterrent to others, rather than vengeance upon the man himself. But fear of punishment does not always deter, and any policy based on fear can claim but little of a constructive element, for fear is primarily destructive in its nature.

"The modern idea of penal administration is based upon principles entirely different from the old. The purpose of imprisonment according to this conception is two fold. First, the immediate protection of society by removing the offender from its midst; when he has proven himself a menace to its peace and welfare; and second, the reformation of the offender and his return to society.

"The indeterminate sentence law operative in Michigan is based upon the idea that if the greatest good is to be accomplished, both for the offender and for society, the policies pursued must be governed fully as much by the character of the man as by the nature of the crime. It is not always possible at the time of the sentence to determine all of the

causes leading up to the offense and no definite time or mode of treatment can safely be directed. The theory is that the business of the state is to cure, to correct the fault and rebuild, so far as may be, the broken lives committed to its care. Their cure can best be effected by maintaining the normal surroundings in prison, and the treatment of each individual case must, to a large extent, be determined by the prison management.

"The work of rebuilding and training a man, and preparing him for good citizenship consists of two parts; that which is accomplished within the prison and on the prison farms, and that further assistance by society while the man is on parole. The work of reform in any penal institution may of itself be divided into two forms: one the breaking of old habits of vice, of drink, of dope, and of indolence; and the other, the forming of habits of industry and right living. This is accomplished by the system of discipline, labor, education, religious training and recreation carried on in the institution.

"No better cure can be found for the man broken by drink and drugs, than total abstinence, wholesome food, and plenty of work. If the work be of the right nature it will serve to regenerate a man physically, interest him, keep his mind active and occupied, as well as teach him a trade at which he can earn an honest living when released.

"Another cause of crime, and perhaps in many cases the reason for the evil associates and bad habits, is the lack of education. A large majority of the inmates of the Michigan State Prison, when received at the institution, would classify only in the primary grades of public schools. Many of these men have had no opportunity to acquire an education, and we believe this has had no small bearing upon their ultimate failure. They lack the proper insight into life and its problems. To provide better education, the management of the Michigan State Prison, while laying the foundation for the future success of the institution, conceived the plan of establishing a thorough and up-to-date school.

"Thus, during the period covered by the preceding biennial report, the administration fixed its purposes, laid the foundation for its industries, and determined its policies with regard to discipline, religious and educational training, finances, etc."

Segregation For First Offenders.

The commission does not believe in the segregation of first offenders as such. It is self-evident that a

first offender may or may not be a person of inherent criminal tendency; for there must of necessity be a time when the most hardened criminal was a first offender; again there is a percentage of cases of offenders that never commit more than one offense. The first problem of segregation then must be one that seeks to ascertain the causes or factors that make an individual commit crime and the causes and factors that make some offenders reform and others become recidivists (repeaters). An ascertainment of these factors by the study of the individual criminal rather than an attempt to find a criminal type or by placing too great importance to the character of the crime is the decided tendency of modern penology.

If an offender be found to be an incorrigible, it is manifest that there can be no hope for his reformation. Society, as a matter of protection to it, must, in such a case, seek to permanently remove the offender. The well being of the social requires that the unreclaimable, the anti-social, be disposed of by process of elimination.

If the offender be found to be an occasional criminal or a criminal by contracted habit the state must undertake the task of his reformation. In addition to the treatment of the incorrigible and occasional criminal the state must provide a system of punishment that shall act as a deterrent.

The object of punishment then is to eliminate, reform or to deter; and the individualization of punishment is the application of the one or the other of these principles. If the principle is applied by the legislative power of the state the individualization is what is called legal individualization; properly it should concern itself with the application of deterrents. The individualization by the judiciary is called judicial individualization; it is applied by sentence and may be manifest in the fixed term, suspended sentence, indeterminate sentence and probation and parole. The judicial individualization acts under legislative grant and limitation. Under present application it is the most unsatisfactory method that could be devised for the reason that it looks to the objective, the crime, rather than the subjective, the criminal. It makes the punishment fit the crime, regardless of the agent. It says that the power to distinguish between right and wrong is the test of responsibility for criminal acts, and when the ability to distinguish between right and wrong is wanting or is diminished, it mitigates punishment.

Individualization by prison authorities or separate boards and by the executive pardoning power is called administrative individualization. On administrative individualization lies the approach to a better solution of the criminal problem.

When public opinion shall fully accept administrative individualization—it will retain legislative determinations, limit the province of the judge and jury to the ascertainment of the commission of the crime, the identification of the accused as the agent of the crime, and the facts of self-defense; and place with administrative processes the question of responsibility, and reformation.

Until this is done there can be no hope that segregation of first offenders will operate as a remedial principle. To mix into one group incorrigibles and occasional criminals, even though they all be first offenders, solves nothing. The only advantage it has is that possibly all are young in criminal ways, at least it may be presumed so because all are first offenders. It would be far better to turn all first offenders free, except those of the most evident criminal tendencies, than to indiscriminately mix them in personal contact.

The great trouble in the solution of the criminal problem is that public opinion is formed by contact with isolated cases. Many believe that crime is the result of economic causes. Others believe that all criminals are more or less insane. Still others, that all criminals are bad men—once a criminal, always a criminal—yet these facts stand out beyond dispute:

1. That not all persons, who are pressed by the stress of economic conditions, commit crime.
2. That some criminals measure normal to every known test for insanity or moral insanity.
3. That not all offenders are recidivists or repeaters.

It must be concluded therefore, that no one factor is the contributing cause for crime. The criminal may be the product of the simple or the complex.

Again, it is possible that the recidivist or repeater is not an incorrigible. In the first place he may have been an occasional criminal, the association with prison treatment may have made him a recidivist. He may still be susceptible to reformation.

The unrestricted application of segregation of first offenders, neglects a consideration of every one of these factors.

The proper basis for a segregation is to ascertain the high percent of factors contributing to the de-

linquency or recidivism of a large group of criminals and segregate in accordance with persistent or frequently recurring factors. Such a method in the individualization of offenders obtains in the Juvenile Court of Chicago and is applied by Dr. William Healy, the Psychopathic Director. Of the system he says, in his work, "The Individual Delinquent," page 33: "Our conception of working methods starts with the premises that a sound procedure for understanding and treatment of delinquency is only found in a well-rounded survey of the individual and the driving forces of his career. To this end there must be a cross study of the offender, just as complete as it is practicable, including data derived from the standpoint of social, medical and psychological investigations. From such a cross study the diagnosis must be derived by thoughtful consideration and the prognosis or predictabilities carefully rendered."

In his work Healy gives the causative factors determined by a study of 823 young recidivists (that is persons convicted of more than one offense). He divides the causative factors into three classes, they are:

- 1—Main or major factors,
- 2—Minor factors,
- 3—Total number of times appearing as a factor.

He found that out of the 823 cases mental abnormalities and peculiarities appeared as a main or major factor 455 times and as a minor factor 135 times, a total of 590. Defective home conditions, including alcoholism, as a major, 162 times, as a minor factor 394, a total of 556. Mental conflict as a major 58 times, as a minor 15 times, a total of 73. Improper sex experiences and habits as a major 46 times, as a minor factor 145 times, a total of 192. Bad companions as a major 44 times, as a minor 235 times, total 279. Abnormal physical conditions, including excessive development, as a major 40, as a minor 233 times, a total of 273. Defective or unsatisfied interests, including misuse or nonuse of special abilities, as a major 16 times, as a minor 93 times, a total of 109 times. Defects of heredity as a minor 502 times and defective early developmental conditions as a minor 214 times.

	Minor 3	Total 3
Deliberate choice	Major 1	Total 1
Sold by parent	Major 1	Total 1
Use of stimulants or narcotics	Minor 92	Total 92
Experiences under legal detention	Minor 15	Total 15
Educational defects, extreme	Minor 20	Total 20

This result has special bearing on the segregation of offenders. It shows that recidivism in more than

50 per cent of the cases is due to mental abnormalities and peculiarities. A detailed study of these 50 per cent factors shows that recidivism is apt to be pathological.

His analysis of the 455 factors of mental abnormalities and peculiar mental characteristics is as follows:

Defective Types.		
	Major Factor.	Minor Factor.
Poor native mental ability	6	5
Feeble-mindedness, abnormality	87	..
Feeble-mindedness, imbecile	5	..
Dull, perhaps from ascertained physical causes, including some cases of epilepsy	28	5
Specialized defects, including defect in self control	16	8
Aberrational Types.		
	Major Factor.	Minor Factor.
Epileptic mentality—variable	60	3
Hysteria—with well marked mental manifestations	12	2
Psychoses.		
	Major Factor.	Minor Factor.
Paranoia	4	..
Dementia percox	6	..
Juvenile paresis	1	..
Maniac depressive insanity	2	..
Confusional excitement during pregnancy	1	..
Major psychoses not further classified—this includes some cases of so-called menstrual psychoses	34	..
Adolescent or pubertal, temporary	17	1
Choric psychoses	4	..
Traumatic psychoses	2	..
Hypomania, constitutional excitement	3	..
Amnesic urges	2	..
Temporary psychoses	3	..
Peculiar Mental Characteristics.		
	Major Factor.	Minor Factor.
Adolescent instability, marked cases	36	61
Social suggestivity, extreme	9	6
Love of adventure, extreme	5	5
Marked sensual type	6	10
Constitutional inferiority, including marked neurasthenic and psychopathic types	20	2
Extreme stubborn, reckless, self-assertive type	3	3
Marked criminalistic impulses on unanalyzed mental basis	12	..
Extreme laziness, in spite of very good physical and mental endowment	1	..
Hypersensitiveness	2	1
High mental ability—only in connection with unsatisfied interests	3	2
Obsessed by mental imagery	1	5
Racial characteristics, extreme, negro, Indian, or both	3	5

If 50 per cent of recidivists, as shown by these 823 cases, bears a constant or an appreciable ratio in general criminal phenomena and the mental defects be pathological, it is evident that the penitentiary system of punishment, that assumes an understanding of responsibility for criminal acts and further seeks to restore the transgressor to society as cured after a sentence, either fixed or indeterminate, based upon good prison conduct, is predicated upon false principles as to such mental defect cases.

The first principle of segregation, then, is to ascertain the hopeless mental defect cases and, as to them,

abandon the attempt to restore them to society at all. As to them the principle applicable should be to permanently remove them from their social environments by life detention in a state institution. The state does not hesitate to do this with the insane. Why should it hesitate to do it with the mentally incurable defectives? When once the criminal tendency is found to be attributable to irresistible mental defect factors, the state's only remedy is that of elimination. This would be drastic, but if safely applied would be unobjectionable.

Healy divides the subject of the individual delinquent, for the purpose of a comprehensive basis, into the following:

The Mental Basis of Delinquency.

- a—Conduct, an expression of mental life.
- b—Practical bearings of the psychological viewpoint.
- c—Importance of mental abnormality.
- d—Psychological standpoint, taken alone, unsafe.
- e—Specific features of mental life underlying delinquency.

General Survey of Working Methods.

- a—the observer and his attitude.
- b—Privileged communications.
- c—Previous training of observer.
- d—Age of examiner.
- e—Types of study.
- f—Sources of information.
- g—Place of observation.
- h—Extent of study of case.
- i—Office and equipment.
- j—Assistants.

Concerning Delinquents.

- a—Family history.
- b—Developmental history.
- c—History of environment.
- d—Intellect and moral development.
- e—Anthropometry.
- f—Medical examination.
- g—Psychological examination.
- h—Record of tests.
- i—Record of psychological analysis.
- j—Medical methods.

Psychological Methods.

- a—General statement concerning psychological methods.
- b—Anamnesis.
- c—Method of giving mental tests.
- d—The mental tests.
- e—A plan of psychological inquiry.
- f—His development of performance tests.
- (1) Test for level of general intelligence.
- g—Binnet tests.
- (1) Test for school work.

- h—Interpretation of educational tests.
- (1) Tests for special abilities and functions.
- i—Special capacities and tests for them.
- j—Memory powers.
- k—Ability to give testimony.
- l—Powers of attention.
- m—Motor co-ordination.
- n—Associative processes.
- o—Perception of form and color relationships.
- p—Learning ability.
- q—Ability to profit by experience.
- r—Language ability.
- s—Arithmetical ability.
- t—Mental representation and analysis.
- u—Persight and plainfulness.
- v—Visual perception and analysis.
- w—Judgment and discrimination.
- x—Suggestibility.
- y—Will power.
- z—Appreciation.
- a1—Moral discrimination.

- b1—Following instructions.
 - c1—Vocational tests.
 - d1—Special abilities.
 - e1—Mental content and interests.
 - f1—Interpretation of mental tests.
 - g1—Enumeration of disturbing conditions.
 - h1—Norms tests.
 - i1—Danger of insufficient data.
 - j1—Classification of tests.
 - k1—Psychoanalysis.
 - l1—Psychological impressions.
 - m1—The Psychogram.
 - n1—Summary of case.
- The Basis of Valuable Statistics.**
- a—Characteristics of groups of cases.
 - b—Interpretation of statistical findings.
 - c—Summary of causative factors by groups and totals.
 - d—Analysis of mental abnormalities and peculiar mental characteristics.
 - e—Analysis of defective home conditions.
 - f—Analysis of mental conflicts.
 - g—Analysis of improper sex experiences.
 - h—Sex companions.
 - i—Analysis of abnormal physical conditions.
 - j—Analysis of defective and unsatisfied interests.
 - k—Analysis of early developmental conditions.
 - l—Analysis of mental shock.
 - m—Analysis of stimulants and narcotics.
 - n—Experiences under legal detention.
 - o—Statistics of psychological classification of 1,000 repeated offenders.
 - p—Male offenders.
 - q—Female offenders.
 - r—Statistics of weight correlated with age.
 - s—Statistics of stigmata of degeneracy.
 - t—Epilepsy among 1,000 repeated offenders.
 - u—Numerical family table in 1,000 repeated delinquency.
 - v—Family conditions.
 - w—Legitimacy in 1,000 repeated offenders.
 - x—Birthplace of offenders.
 - y—Birthplace of parents.
 - z—Previous institutional life.
 - a1—Religion.
 - b1—Education.
 - c1—Alcoholism of parents.
 - d1—Statistics of heredity.
- Methodological Conclusions.**
- a—Bearing of findings in classification.
 - b—Usual types may be differentiated.
 - c—Study of mental life most direct way of getting at the causal factors.
 - d—Social predictability of the given case.
 - e—Inference of causation.
- Fundamental Ideas of Treatment as Derived from Observation.**
- a—Punishment is necessary.
 - b—Defect self control no excuse for legal freedom.
 - c—Punishment should not harm the offender.
 - d—Mental life and moral dangers during custody.
 - e—Effect upon offenders of attitude toward him.
 - f—Danger of deceit in treatment.
 - g—Advantage of beginning treatment early.
 - h—Caution often not obvious.
 - i—Organization of courts for better treatment.
 - j—Treatment of physical causes.
 - k—Treatment of mental causes.
 - l—Treatment of environment.
 - m—Treatment in institutions.
 - n—Good treatment can only come through understanding and following up.

Undoubtedly the best means to combat crime is in the treatment of the young. It seems to be agreed by all authorities that the tendency to commit crime appears very early in life. If this be so, it is of great importance that the state meet the situation before the criminal agents have much opportunity to inflict harm on society. The proper place to organize and apply such combative methods is in the juvenile

courts, in schools for defectives and in a system of compulsory institutional commitment of the feeble-minded. The control of each of these agencies as to the organization, administration and processes should be a central control under state officials. Decentralization in such agencies leads to indifferent and superficial methods, high administration cost and complete lack of co-ordination. The methods should have available psychological and medical laboratories and employ the services of competent and skilled observers. Such methods would result in a psychopathic institute for study and application of methods, introduction of classifications and applications of criminalistic therapeutics as now obtains in the Chicago Juvenile Court. Such an institute should be made available to the juvenile courts of the state, the State Penitentiary, the Boys' and Girls' Training Schools, the School for Feeble-Minded and Schools for Defectives.

The central authority should inspect the schools of the state and have power to remove defectives from such schools and assign such subjects to the proper institution.

As a preliminary step in such a contemplated organization the extension services of the Experimental Psychology Department of the State University and the medical department of the State Hospitals for the Insane and of the State University should be employed. Until such an institute has been organized an attempt should be made to apply such indirect methods by the organization of a visiting staff of physicians and psychologists for the State Penitentiary to assist a resident physician.

That the tendency for the application of psychopathic methods in segregation is being employed in modern practice we beg to cite the following—Review of Robert H. Gault of "Our Criminal Problem from the Standpoint of Classification and Segregation," by Dr. Edith R. Spaulding, of the State Reformatory at Framingham, Mass. This review appears in Vol. 6, issue No. 4 of the Journal of Criminal Law and Criminology—November, 1915. Dr. Spaulding's conclusions are as follows:

"If the criminal problem is one of treatment of the individual for a deficiency rather than of punishment for the crime committed, the following fundamental provisions for the administration of such treatment are necessary:

"1—Adequate provision by the state for the permanent custodial care of all committed cases of

mental defect, whether or not they have a criminal record.

"2—The establishment of laboratories in our courts and correctional institutions for the study and diagnosis of all offenders.

"3—The equipment of all our institutions with facilities for classification and treatment of the various types. Such a classification will necessitate separate buildings, at least one of which should be equipped for hydrotherapy.

"4—The adoption of an indeterminate sentence which shall enable us to treat patients until they are able to return with safety to the community."

Such methods seem to be employed in the Indiana State Prison. See the article, "The Clinical Study of the Habitual Criminal," by Dr. Paul E. Bowers, physician in charge of Indiana State Prison and President of the Prison Physicians' Association, found in the proceedings of the Annual Congress of the American Prison Association for 1914, page 2-1. Dr. Bowers gives a study of 100 recidivists and recites the mental status as found among that number to be as follows: Insane 12, feeble-minded 23, constitutional inferior 38, psychopaths 17, epileptics 10. Of these he says: "It is easy to see even from the most superficial study of these figures that these 100 habitual criminals are defective. This is especially apparent when we stop to think that 75 of them did not even reach the sixth grade and that 7 were wholly illiterate. Some objection may be offered against this conclusion, but this is easily overcome by the fact that opportunities for education were good in the majority of cases. The real cause of the lack of education was the inability to assimilate that which was taught them because of mental defect and such physical conditions as poor eyesight, adenoids, defective hearing, which had a tendency to create a distaste for study and a state of incurability.

"I did not find these prisoners to belong to any distinct anthropological type. They were, however, in mental and physical status below the average individual living at liberty. The marks of constitutional inferiority were uniformly present. Among the chief anatomical defects noted were malformations of the skull, teeth and palate. The physiological stigmata were very much in evidence. I found perversions of the sexual instincts, defects of speech, disorders of the sensory nervous system, which included varying degrees of insensibility to

pain.

"The psychical stigmata were sharply defined, showing an exaggerated amount of egotism, inability of continuous application to manual work or study, ill balanced mental activity, moral anesthesia and emotional instability. The aesthetic taste was, many times, depraved; tattooing was quite frequent, especially of the obscene variety." His conclusion is as follows:

"It is evident after the study of these 100 habitual criminals that crime, its manner of classification, and its various modes of punishment have received more attention than the prisoner himself. We have treated the symptoms of social pathology rather than the cause. Punishment has exerted little if any influence upon the 100 prisoners, and more than 1,200 years of confinement and the application of the usual methods of reform have failed to convert them into useful, law-abiding and self-supporting citizens. What permanent advantage can accrue to the state to arrest, convict and sentence a defective individual with criminal propensities to a penal institution and then release him at the expiration of his sentence uncured, still defective, more anti-social and a greater menace to the welfare of society than he was before incarceration? This manner of dealing with the defective delinquent is inadequate for the protection of the public and unjust to the prisoner.

"If the number of men I have studied can be taken to be representative of the habitual criminal class, and I believe they can, allowing of course for a few exceptions, I feel justified in offering the following conclusion:

"Despite our reluctance to admit it, the fact is, and the same can be demonstrated, that the recidivist is a mental defective no matter what the external circumstances may be. Habitual criminality is one type of reaction of inherent or acquired degeneracy to temptations to vicious economic and social conditions of the present complex state of civilization.

"It is apparent since the recidivist is more or less mentally defective, and therefore to the same degree more or less irresponsible, he should receive medical and educational treatment primarily, and in addition religious and ethical teachings.

"Our prisons and reformatories are maintained at tremendous cost and I do not think that the public should be compelled to build separate institutions for the defective delinquent. The medical and physical criminal nature of the problem should be

recognized and our prisons should take on more the character of a hospital and school of mental and physical hygiene for the development of physical and moral manhood.

"In dealing with prisoners we must always bear in mind this fundamental principle: There are physical defects to be remedied, there are mental twists to be straightened, there are wrong perspectives of life to be corrected, there are false attitudes towards society to be obliterated; the work of the modern should be, and will be when we reach the humanitarian and scientific level where we belong, the work of a well organized hospital for the sick, a special school for the miseducated and a training field for the morally awkward and the weak."

In 1912 there was established in the Indiana Reformatory a department of research. There was added to the medical department psychological and sociological departments and the medical department was reorganized with a view of correlating these three branches of the department of research. An institutional court was established, consisting of the Consulting Physician, Psychologist, and Superintendent of Schools, and every inmate, reported for infraction of rules, is tried before this court and every element of his case carefully considered. In discussing this system David C. Peyton, Superintendent of the institution, says: (See proceedings American Prison Association 1914, pages 257 and 258) "No one actively engaged in the treatment of the criminal class doubts the truthfulness of the statement that they are of very low mentality, and yet the limited results of scientific investigation can scarcely be said to have furnished sufficient data to entirely prove this conclusion. However, the returns from the laboratory investigations are of very valuable significance and justify the statement that at least one-half of the population of our institutions are subnormal.

"Investigations that go to make up the mental examination are in the following fields: perception, association, memory, reason, orientation, fatigue, mental activity, motor control, moral appreciation, ability to profit by experience, attention, general information, general interest and ability to plan. Each subject is given the Binet-Simon test, while the observations are made as to the results of formal educational experience, ability to carry on conversation and the nature of the reaction to natural and artificial environment.

"In addition to this, inquiry is made into the social condition of the parent, and knowledge of the religious tendencies and habits together with nativity, occupation, economic conditions of the parents is also sought. The medical examination furnishes the second factor in the case while the final element is determined by the outcome of the psychological tests and observations. Not only is it necessary to attempt to discover the chief cause, but the contributing causes as well, of the original activity in these defectives, and a rather careful diagnosis is attempted."

It is therefore recommended that a medical department be added to the State Penitentiary with psychological and sociological branches. That the medical department have a resident physician and that there be properly equipped medical and psychological laboratories available for his use. That he be required to make blood tests of inmates for the detection of venereal diseases and that the medical examination of inmates cover the following field as outlined by Healy:

MEDICAL EXAMINATION.

- a—Personal cleanliness—vermin, etc.
- b—Weight, height.
- c—Development.
- d—Nutrition.
- e—Deformity.
- f—Attitude.
- g—Expression.
- h—Speech.
- i—Thyroid gland.
- j—Nose.
- k—Throat.
- l—Thoracic viscera: heart, lungs.
- m—Abdominal viscera.
- n—Teeth: special attention Hutchinson teeth, carious and impacted condition.
- c—Temperature—pulse—blood—urine.
- p—Genital organs.
- q—Trophic conditions: muscle—skin—bones.
- r—Functions of digestion, circulation, etc.
- s—Mental (very important)
 - 1—perception: hallucinations, illusions, clouding of consciousness.
 - 2—association processes.
 - 3—attention.
 - 4—judgment: delusions, orientation, etc.
 - 5—memory.
 - 6—emotions: many abnormal variations.
 - 7—abnormal physical sensations.
 - 8—physical control.
 - 9—mental control.
 - 10—moral control.
- t—Cranial nerves:
 - 1—2—vision—visual fields—optic discs.
 - 3—4—6—pupillary form and reactions—strabismus—ocular movements—nystagmus, ptosis, diplopia.
 - 5—motor—sensory.
 - 7—paralysis—tics.
 - 8—hearing—subjective auditory disturbances.
- u—Sensory:
 - 1—headache.
 - 2—vertigo.
 - 3—pain.
 - 4—tactile sense.
 - 5—temperature sense.
 - 6—joint sense.

- 7—vibratory sense.
- 8—paraesthesiae.
- v—Motor:
 - 1—upper extremity.
 - 2—lower extremity.
 - 3—trunk.
 - 4—coordination.
 - 5—tremor.
 - 6—gait.
 - 7—tactility.
- w—Reflexes:
 - 1—conjunctival.
 - 2—palatal.
 - 3—pharyngeal.
 - 4—abdominal—upper, lower, right, left.
 - 5—eromastic.
 - 6—plantar.
 - 7—jaw.
 - 8—arm.
 - 9—knee jerks.
 - 10—ankle jerks.
 - 11—micturition.
 - 12—defecation.

It is also recommended that the Medical department, in connection with the Warden, keep a Biographical Ledger in accordance with the facts of the daily life of inmates and that such ledger be made available to the Parole Board, so that a better insight of the character of applicants for parole may be obtained by the board. The Biographical Ledger prepared by Ottolenghi is recommended and it is as follows:

BIOGRAPHICAL LEDGER

Physical Characteristics and Biographical Information.
(The officer will underline the quality of the characteristic, or fill out the space as he makes his observations.)

Physical Characteristics
Intelligence and its manifestations—deficient, ordinary, high, cunning, sincerity, excited, depressed, unbalanced, raving.
Manual occupations—skillful, ordinary, clumsy.
Reading—whether he reads or not, the books he prefers, what periodicals.
Writing—handwriting, childish, ordinary, careful, conventional letters, peculiar signs, secret writing, aptitude for writing—little, ordinary, developed.
Culture—deficient, ordinary, fair, high, language he knows, publications.
Speech—talkative, laconic, silent, careful, vulgar, obscene, whether he knows slang or not.
Carriage—ordinary, vain, dejected, timid.
Facial expression—intelligent, indifferent, restless, frightened, stupid, good, gay, sad, changeable, calm, open, suspicious, false, insolent, timid, distracted.
Temperament—calm, restless, emotional, not emotional, uniform, changeable, apathetic, excitable, violent, balanced, unbalanced, unchangeable.
Character—weak, easily influenced, strong, obstinate, constant, inconstant, mild, brusque, merry, indifferent, sad, selfish, altruistic, expansive, reserved, timid, proud, insolent, sociable, misanthropic, sincere, hypocritical, simulative, scrupulous, honest, dishonest.
Behavior—in family, with parents, with wife, does he live with her or not, does he treat his wife well, does he live with his children or not, does he look after them or not, does he support or exploit his wife, does he live with another woman, has he abandoned his children, does he treat them well or not, does he support or exploit them.
Industry—works assiduously, little, does not work, unemployed, change occupation, does he take part in strikes—actively or passively, the opinion he has of his employer.
Attitude in business—enterprising, adventurous, without initiative, honest, not very, scrupulous, rascally.
Sexuality—ascetized, ordinary, abnormal.
Religiosity—believer, unbeliever, does he practice his religious exercises or not, pious.
Disposition—prodigality—yes or no.
Inclination to vagrancy—yes or no.

Vices—drunkard, gambler, fond of women, debauchee.
Litigation—Is he inclined to enter in law or not.
Impulsiveness—brutality—yes or no.
Attitude toward authorities—obsequious, arrogant, scornful, rebellious, mistrustful.
Relation with suspects—(malefactors, prostitutes, etc.) yes or no.
Dominant criminal aptitude—
Dangerous—
Signs of regeneration—

Biography.

Family—parents, brothers and sisters, wife, children, conditions of life, economic conditions, morality, mental state of each.
Childhood and youth—behavior in the family.
Behavior at school and in charitable institutions.
Behavior in the House of Correction.
Aptitude shown—for study, work, vagrancy, pauperism, delinquency, vicissitudes in work, in business and in family matters.
Military life—behavior, rank, offenses.
Civil life—mode of life, employments, reputation.
Men acquaintances.
Men acquaintances.
Change of domicile.
Vicissitudes abroad—occupation, journeys, acquaintances, expulsion.
Vicissitudes in jail—during period of vigilance, insubordination, rebellion, simulation, attempt to commit suicide, etc.
Important events in which he took part.
Physical infirmities.
Mental infirmities.
Epileptic fits, hysterical fits, paranoias, excitement, depression, suicidal attempt.

The Parole Board, the Parole Officer, and Their Powers, Duties and Responsibilities.

The organization and powers and duties of the Parole Board and the Parole Officer are found in Laws of Oregon, 1915, Chapter 176 (page 216) and Laws 1911, Chapter 127 (page 172). As originally organized by Chapter 127 of the Laws of 1911, the Board consisted of the Superintendent of the Penitentiary and two other residents of the state appointed by the Governor. This act did not in direct terms create a parole officer. The act provided for the appointment of a secretary by the board. The authority of the board under this act was ample to enable it to create a parole officer to perform duties under the direction of the board.

Under the act of 1915 (Chapter 176) the organization of the parole board was changed, a parole officer was created and his duties made more or less statutory. In addition to these provisions it was made the duty, by the act, of circuit judges, when exercising the power of parole as by law vested in them, to make it a written condition of the parole, when the defendant was not paroled to another, that the paroled defendant report to the parole officer subject to all the rules and regulations and penalties for breach of parole relating to persons under parole from the penitentiary.

As the law now stands the parole board is organized as follows:

It is composed of five residents of the state, one of them is the Warden of the Penitentiary, one the secretary of the Governor, one the Parole Officer,

these are ex-officio, and two appointed by the Governor. The powers and duties of the board are still found in the act of 1911, except that its jurisdiction is extended to the judicial parole, as above indicated, and a part of its jurisdiction (some of its executive powers) seem to have been transferred to the parole officer.

The powers and duties of the parole officer as conferred by the act of 1915 are as follows:

Direct Delegation by Statute.

a—To keep a register of all paroles and conditional pardons.

b—To see that the provisions of Chapter 127, Laws of 1911, are observed on the part of all persons released from the penitentiary on parole or conditional pardon; and require all such persons to report to him at stated intervals.

Subordinate Powers.

He has power in accordance with the rules and regulations of the parole board, and as the representative of the state of Oregon to retake and return parole breakers.

The substance of the parole law as it now stands is as follows:

Whenever any person is convicted of a crime, for which the maximum punishment is a definite term of years in the penitentiary, the court shall, unless it impose other sentence than a sentence to serve a term in the penitentiary, sentence such a person to imprisonment in the penitentiary without limit as to time; stating in the judgment and sentence the minimum and maximum penitentiary penalty for the crime, as provided by law. This method is known as the indeterminate sentence. Any person sentenced to serve an indeterminate sentence in the penitentiary may be paroled by the Governor, either on his own motion or on recommendation of the parole board. The power of parole is thus vested in the Governor and the parole board only has power of recommendation. The law also provides that no parole can be granted until the prisoner has served at least his minimum term prescribed by law for the crime for which he was convicted and sentenced; but the Governor can grant a full or conditional pardon before the expiration of the minimum sentence. No prisoner shall ever serve a greater time than the maximum sentence for the crime whereof he has been convicted. No person, who has on two prior separate occasions been sentenced to serve a term in any penitentiary or reformatory, shall be entitled to

an indeterminate sentence, but shall be sentenced to a definite term of years. That is to say, such a person is not eligible to parole at all, and the court in such a case has the power to sentence such a person to a fixed term in the penitentiary, which term shall not be less than the minimum or greater than the maximum period as by law fixed.

No person, who has previously been sentenced to serve a term in any penitentiary or reformatory, shall be entitled to consideration for parole until after he shall have served a term of years equal to twice the minimum penitentiary penalty for the distinct crime for which he was convicted and sentenced.

The power of revocation of a parole is vested in the Governor, either on his own motion or upon the recommendation of the parole board.

The terms and conditions of all paroles are determined by the Governor. In case of recommitment of a parole breaker the prisoner must serve out his sentence and the time he was out on parole shall not be part thereof; but the Governor has power to re-parole or grant a pardon to a parole breaker.

The provisions of this law apply to all persons confined in the penitentiary or sentenced to confinement therein when the law was passed; when such persons have served the minimum penitentiary sentence fixed by law as a penalty for the crimes whereof they have been convicted the law requires that the judge and district attorney of the court, wherein the prisoner was convicted, and all other state officials having information furnish the parole board such data and information concerning the convicted person or the crime or the circumstances thereof, for which he was convicted, as may be needed or helpful to the parole board in the performance of their duties.

The operation of the parole system is the principal source of irritation among the prisoners in the penitentiary. Every instance where the parole system was discussed by this commission with the prisoners it was found that the dissatisfaction with the working out of the law was ascribed to the parole board and parole officer. The prisoners did not seem to understand the difference between the mandatory provisions of the law and the discretionary powers of the board; and that the board has only the right to make a recommendation to the Governor for a parole; and that the Governor sometimes grants a full or conditional pardon before the expiration of

the minimum sentence.

Before considering the administrative features of the parole board law and the policies of the parole board and parole officer, it seems proper to discuss the mandatory provisions of the law that are making the most trouble in the penitentiary.

When a judge sentences an offender to the penitentiary he has no powers to fix the limits of the sentence except when the law requires the fixed sentence. The law fixes a minimum and a maximum for the crime of which the offender has been convicted. As a matter of administrative detail the law requires that the judge state in the judgment and sentence the minimum and maximum penitentiary sentence for the particular crime. By common assent the prisoners in the penitentiary construe the sentence of the judge to mean that where they have served the minimum term, they have served their time, provided their conduct has been good while in prison. If they are first offenders and have a good prison record they think they should be paroled at the expiration of their minimum. If they have one former prison record they argue that the parole board gives them a double minimum; which they say is wrong for the reason that the former debt to society was paid by the former imprisonment and to give a double minimum makes them pay society twice for the last debt. If they have two former prison records they say the parole board does not allow them to apply for a parole at all. In all these matters it is said the board acts unfairly with them.

To begin with, it is the law and not the board that provides the double minimum for the offender with a former prison record; again it is the law and not the board that withholds the terms of the parole law from those who have two former prison records.

By this process of elimination we find that the board only has discretionary power to make a recommendation for a parole after the expiration of the minimum sentence in the case of first offenders and after a double minimum in case of offenders with only one former prison record.

Prior to the indeterminate sentence law the penitentiary sentence was for a fixed term with reduction of time under the merit system. An offender knew just what his term would be and just how much he could reduce it by good conduct, under the fixed term and merit plan. The criminal law became the Magna Charta of the criminal. He knew if he broke the law and was caught he would pay

his price; that his second offense would be measured as to punishment only in the light of the second offense itself, without taking into consideration his former prison record. Under the system, the criminal law, the judge who imposed the sentence, the criminal and the prison officials all regarded as the ideal system of punishment that which made the punishment fit the crime. True, the judge had a discretion to impose a fixed sentence between a maximum and a minimum; but the sentence itself was largely impersonal, dependent on the circumstances of the crime. The short-comings of this system at length became apparent. It was powerless to cope with recidivism. It is a well known fact that the model prisoner is often the most dangerous man on the outside. Under the fixed term, merit system plan, such a prisoner had but to conform to the rules and he was a step nearer to the time when he could again prey upon society. Under the system his discipline was an easy matter for the prison officials. The great trouble with it was that society had it all to do over again.

The indeterminate sentence, as it obtains in this state, was a departure, but not a complete one from the old system. It preserved the idea of normal responsibility for criminal acts it sought to solve the problem of recidivism by making punishment for repeated acts progressive, at least a minimum term for first offenders given a penitentiary sentence; at least a double minimum for one repetition of criminal acts, with a discretion in the parole board as to recommendation for parole beyond the minimum term in each case and up to the fixed maximum; and no parole at all for a two term repeater. It made repetition the conclusive evidence of recidivism. It retained the idea that punishment must be made to fit the crime. While it took away from the judge the right to impose a fixed sentence, it made the judge and prosecuting attorney the working agency of the board by requiring them to furnish the board with the facts and circumstances of the crime. We thus find that the objective rather than the subjective individualization of punishment forms the statutory basis for the operation of the parole law in the state.

The fundamental error of the present parole law is that it is not true that repetition of criminal acts is conclusive evidence of habitual criminality. Nor is it true that progressive penitentiary punishment is a cure for habitual criminal tendency.

Punishment should fit the individual. The cir-

circumstances of the crime and prison conduct should be factors of some punishments but not of others. In no case should they, as in the present system, be the conclusive factors in the operation of a parole law.

When a man commits a crime he has done at least two things: he has injured some one and he has undermined the existing social order by conduct that has transgressed legal rules that seek to govern all conduct with the least governmental interference. That is to say he has refused to abide by a system that gives a maximum of personal liberty and minimum of legal prohibition.

Such a man should at once become the concern of the society to which he has shown himself not to be in accord. He should become a ward of the state so that it may be ascertained whether his case is a hopeless one; or whether correctional treatment may restore him to liberty as a safe member of society. His crime or his prison conduct may or may not be factors in the solution of the problem. But at all times the ultimate question is, should he or should he not be eventually given his liberty? If he is a hopeless criminal he should be permanently detained. If he is amenable his case requires as much individual expert study as does that of the patient by the physician. The present parole law therefore should be modified. The most desirable changes would be to abolish the minimum and maximum limits of the indeterminate sentence and make the imprisonment absolutely indefinite; the prisoner being released by the board only when it is believed by the board that he can safely be restored to society, also to give the board the power to parole rather than having it an advisory board to the Governor as it is now. There are legal objections to these changes, however. Some courts hold that if the sentence be absolutely indefinite and the ultimate release be vested in a parole board, without positive constitutional authority for the exercise of such power, that such a plan is unconstitutional for the following reasons:

- 1—It would be a delegation of legislative power.
- 2—That such a law would confer judicial power upon the board.
- 3—That such a scheme would be an encroachment upon the constitutional pardoning power of the Governor (See Vol. 4, Am. & Eng. Ann. Cases, page 1108; Vol. 20 Am. & Eng. Ann. Cases, page 472).

Until our constitution is changed then, it would not be advisable to place the absolute power of

parole in any one but the Governor; and it would be dangerous to make the imprisonment indefinite without a fixed limit; for if our Supreme Court was to hold this to be a delegation of legislative power or an encroachment on the judiciary, the sentence would be void and the defendant entitled to his liberty without punishment. Any change therefore to be safe must not encounter these objections. Any parole law, however, should avoid the minimum sentence plan. The parole law then should be safeguarded by a fixed legislative sentence; a power to impose such a sentence by the judiciary in definite terms; and the scheme of operation of parole should be predicated on the pardoning power of the Governor by the use of the conditional pardon system. Such a parole law would probably be the best that could be employed without constitutional amendment.

But individualization of punishment seems to require that the discretion of the term of imprisonment be with the conditional pardon and advisory parole board rather than with the judiciary. The judge has neither the time nor the proper opportunity to study the individual. He sees so many offenders that to him they form but a class.

He uses his discretion as circumstances of aggravation or mitigation surrounding the crime present themselves to him. Therefore he should have no discretion as to sentence.

It is therefore recommended that the present indeterminate sentence law be repealed and that there be substituted therefor a fixed sentence for each crime enumerated in the penal code for which a penitentiary sentence is designated. That such fixed sentence in each case be the maximum penitentiary sentence now provided by the penal code for each offense. If the maximum is too high in some cases it should be reduced by law. That the parole board be given jurisdiction to recommend a parole at any time after an offender has actually begun to serve his penitentiary sentence. That no distinction be made between a first offender and an offender having either one or more former penitentiary or reformatory sentence records, but that each case be a matter of personal investigation by the board. That the board within its discretion take into consideration former prison records in order to ascertain the existence of habitual criminality but that such records shall not be deemed conclusive evidence of habitual criminality, and that a good

prison record be not made the sole test for the recommendation by the board for the liberation of a prisoner on parole.

It is further recommended that an amendment to the constitution be submitted to the vote of the people that shall differentiate between the pardoning power of the Governor and the parole power. That the pardoning power be retained in the Governor in accordance with the ancient prerogative; but that the parole power be vested in a parole board in accordance with the idea that a parole in no way involves the exercising of the pardoning power but is a scheme of punishment calculated to restore the criminal of passion, the criminal by contracted habit and the occasional criminal to society after an attempt at correction and a probationary period of observation, with the right during the probationary period to return the offender to the penitentiary in case he does not make good.

Personnel of the Parole Board.

The personnel of the parole board has received the careful consideration of the commission. As now constituted it is the opinion of the commission that the board gives too little consideration to individual cases. The recommendations of the board seem largely to be governed by the opinions of the trial judge and the prosecuting attorney, who presided at the offender's trial, and the prison record of the offender. The commission readily grants that these are factors to be taken into consideration but cannot concede that they are conclusive factors. As has been elsewhere stated in this report, often the worst type of criminal has a good prison record. The judge and the prosecuting attorney get but a fleeting view of the offender. In our opinion the parole board should constitute, as near as possible, an independent tribunal placed under a sense of responsibility that paid-for services create as distinguished from volunteer service. Therefore we recommend that the membership of the board no longer be made up in part of the warden of the penitentiary or the parole officer. We recommend the retirement of these officials for the reason that the warden of the penitentiary is apt to attach too great importance to compliance with prison discipline; while the proper control of the subordinate executive functions of a parole officer are destroyed if he be permitted to participate in the discretionary powers that of necessity must be employed to direct his subordinate duties. Again much of the distrust

on the part of the prisoners in the penitentiary in the parole board has been due to the fact that the daily contact with the warden in the application of prison discipline leads them to the belief that he is both accuser and judge in the deliberations of the parole board. In reference to the parole officer, his statutory duty requires that he apprehend parole breakers. He is thus classed as a police officer by prisoners; to allow him a vote on a parole board is to make their executioner their judge, they think. It may be said, and it is true, that prisoners should not be allowed by such prejudices to dominate the personnel of a parole board. But neither should there be the slightest room for the play of those human emotions that the contact of discipline might engender.

There is one state official, however, who should in some way be represented on the parole board. We refer to the Governor. He should either be a member of the board himself or should have a personal representative thereon; this is so, because the only safe way to work out a parole system in this state is through the medium of the constitutional pardoning power of the Governor. A co-ordination between the board and the Governor therefore is desirable; hence the Governor or his representative should be identified with the deliberative processes of the board. We understand that the numerous duties of his office are such that the Governor does not feel that he should personally be a member of the board. The present parole law makes the secretary to the Governor a member of the board. In the opinion of the commission this arrangement furnishes the desired co-ordination and the secretary should remain a member of the board.

The organization, therefore, in the opinion of the commission, should be composed of the secretary to the Governor, as an ex-officio member, and two citizens of the state to be appointed by the Governor for a term of four years each, except that at the time of organization of the board there should be a short term of two years and a full term of four years which would provide against the undesirable feature of having two or more new members, constituting a majority or a full board in case the Governor's secretary should change or the Governor appoint two new members when the time of appointment arrived. The working methods of the board require that at all times there be at least one member conversant with the prior operations of the board.

The board also thinks that the law should require that the board meet at least once a month and that each member receive a \$5.00 per diem and expenses.

Parole Officer.

Under the law the parole officer is given power to retake and return to the penitentiary persons, within or without the state, who have violated their parole or broken the conditions of their pardon. We find that during the month of December, 1916, the parole officer was compelled by the demands of his field work to be on the road for 27 days out of the 31 days of the month. We also find some two hundred or more paroled men under the administrative supervision of the parole officer. We are unable to see how the parole officer can be expected to give careful supervision to the paroled men if he be required to make trips to obtain parole breakers, apprehended and held by sheriffs and police officers. In such cases we think that when the paroled man has broken his parole, has been arrested and held, and the only service needed is that he be brought back to the penitentiary, that this service can be performed by a penitentiary guard.

We therefore recommend that the law be amended so that a penitentiary guard, under the direction of the warden, be the official to have the custody of a parole breaker in his return to the penitentiary for breach of parole. As we have elsewhere pointed out the parole officer should be the administrative subordinate of the parole board.

In order that the parole board have full direction of his subordinate duties; We recommend that the parole officer be appointed by the parole board and serve during the pleasure of that board.

Physical Data Concerning the Penitentiary.

This report has now arrived at the point that before the question of new building, a larger penal farm or industrial employment can be intelligently considered it becomes necessary to consider the physical conditions of the penitentiary farm, existing buildings, industrial pursuits and internal discipline. As this phase of the question is considered, recommendations will be made, predicated largely on the assumption that it is desirable to make them, even though no changes be made in the present physical equipment of the institution.

The penitentiary lands consist of 366.73 acres; of this acreage 246.73 acres are in one tract and include the grounds within the penitentiary walls and farm lands surrounding the penitentiary. The

balance of the lands owned by the state and known as penitentiary lands are situated a mile and a half or so south from the penitentiary on the Turner road and consist of 120 acres. In addition to the lands owned by the state, as above designated, the state leases the following lands for the use of the penitentiary: The Catlin ranch, consisting of 45 acres. This ranch adjoins the penitentiary and is held under a lease to the state for a period of three years from the date of the lease, which was executed during the year 1915-1916. A lease of part of the Crow place, consisting of 53 acres. The acreage within the penitentiary walls is about 11½ acres. Of the farm lands surrounding the penitentiary about 165 acres are under cultivation. Of the Turner road farm 25 acres were under cultivation last year. During last year 50 acres of state land was cleared to be put under cultivation next year. While we have referred to the above lands as penitentiary lands as a matter of fact the penitentiary farm lands seem to be only apportioned to the penitentiary. This is so as a result of the terms and provisions of Section 10 of Chapter 78 of the Laws of 1913, which are as follows: "All lands now, or which may hereafter be owned by the state and devoted to the uses and benefits of any of the institutions located at or near the State Capitol, shall be treated by the board (The Oregon State Board of Control) as if held in common for the use and benefit of all said institutions and in the apportionment and assignment of said lands for the future use of said institutions the needs of each, the proximity of the lands and ability to cultivate shall be given due consideration."

At the present time the penitentiary has a dairy herd consisting of 27 milch cows, one registered bull, five heifers and two calves. At the date of the warden's last bi-ennial report (Sept. 30, 1916) the penitentiary had 13 work horses, 10 being superior animals; 1,025 chickens, 32 head of black hogs, 22 sows, 1 boar and 91 pigs, all being of Poland China and Berkshire cross.

During the year 1915-1916 (Sept. 30 to Sept. 30) as shown by the Betterment Fund, the following livestock was sold:

Goats.			
Oct. 27, 1915	40 goats		\$ 60.00
Horses.			
Oct. 27, 1915	1 horse		70.00
Oct. 27, 1915	1 old horse		20.00
Oct. 27, 1915	horses—no number given		150.00
Bulls.			
Oct. 27, 1915	1 bull calf		10.00
Oct. 27, 1915	1 bull		50.00
Cows.			

Dec. 30, 1915	17 head cattle	355.09
Mar. 31, 1916	1 cow	47.90
April 30, 1916	1 cow	50.00
Sept. 30, 1916	2 cows	128.16
Sept. 30, 1916	2 cows	130.79
Hogs and Pigs.		
Dec. 30, 1915	58 hogs	402.32
Feb. 28, 1916	32 hogs	465.50
Mar. 31, 1916	2 pigs	10.00
Mar. 31, 1916	6000 lbs. hogs at 8½ cents	510.00
April 30, 1916	2 pigs	10.00
May 31, 1916	2 pigs	7.00

\$2,486.37

The Betterment Fund shows that during the same period the following purchase of livestock was made:

Horses.		
Oct. 31, 1915	Team Percheron horses	\$ 380.00
Bulls.		
Sept. 30, 1915	Young bull	110.00
Cows.		
Sept. 30, 1916	Two Holstein cows	130.00
Hogs and Pigs.		
Nov. 30, 1915	Berkshire boar	50.00

\$ 670.00

In regard to the sale and purchase of livestock it is the understanding that the sale and purchase of horses and cattle was to bring the stock up to a better standard. Of the hog sales Warden Minto says in his last report: "The policy since the spring of 1915 with relation to hogs on this place is to attempt to raise only such number as can be fed without extensive purchasing of food for them. To this end the sale of a number of pigs and partly grown hogs will be noticed in the Betterment Fund report."

On the farm, surrounding the penitentiary, are a cow barn, a horse barn, a storage barn, stored with straw, and an implement storage shed. The cow barn is in a state of decay as to its underpinning but modern inside. It will be a good investment to build a new cow barn of concrete construction, and of larger dimensions than the present one. Near this barn should be erected a more modern vegetable washing platform. The commission also finds that a root storage house is badly needed. In the opinion of the commission the horse barn is at the present time adequate and in a fair state of repair. The pig houses are modern, well kept and seem to be sufficient for the present number of hogs. It is recommended that in case of new construction the farm buildings be placed farther away from the penitentiary walls.

Agricultural Implements.

The farm wagons in use have about served their usefulness and three farm wagon running gears are badly needed. There are four Eastern sod plows that are not suitable for the work on the penitentiary farm. These should be sold and replaced with

plows better adapted to the farm work. There is a binder and enough mowers in good condition to handle the present work but the seeding drill seems to be worn out and a new one is needed. The potato dropper has not proven satisfactory and of the two potato diggers a complicated one has not been practical and its use has been abandoned, the other has given good results.

Farm Produce.

The last year crop on hand, either in the commissary or in the farm, September 30, 1916, was as follows:

	Valued at
10,401 lbs. beans, white	\$ 884.85
3,600 lbs. beans, brown	231.00
20,000 lbs. beets	200.00
9,000 lbs. cabbage	110.00
20,000 lbs. carrots	200.00
105 tons corn in cobs	2,625.00
25 tons corn	500.00
3,220 lbs. dry onions	164.00
120,600 lbs. potatoes	1,506.00
1,800 lbs. peas, dry (for seed)	99.00
90 tons hay, vetch and oats	1,170.00
20,000 kale plants	210.00
42 tons straw	1,581.08
3,103 bushels oats	50.00
40 bushels wheat	

Total \$9,043.33

Neither the report of the Board of Control for the first or second biennial periods gives the amount of farm produce on hand at the end of the first biennial period, to-wit: September 30, 1914.

The warden's report for the last biennial, September 30, 1914, to September 30, 1916, shows that the farms produced all kinds of vegetables, fruit and berries of the value of \$19,589.93. The value was obtained from market quotations in the daily papers.

An examination of the Institutional Betterment fund for the biennial, September 30, 1914, to September 30, 1916, would seem to indicate that there had been no sale of farm products between September 30, 1915, and September 30, 1916. During the period September 30, 1914, to September 30, 1915, the fund shows \$238.07 of farm produce was sold from September 30, 1914, to September 30, 1915. This does not include livestock or poultry. The farm produce sold was cabbage, straw, carrots, parsnips, pumpkins and mohair.

During the period September 30, 1914 to September 30, 1915, the Betterment Fund shows the sale of livestock and poultry as follows:

Chinese Pheasants	\$ 24.00
Duck and drake	1.00
Pigs	462.50
Butt calf	25.00
Horses	140.00

Total \$ 653.50

The last biennial report shows that the expense and maintenance of the farm, grounds, garden and dairy supplies and equipment was \$10,769.10, of this amount we are unable to say how much should be charged to the farms. It may be presumed, however, that the items appearing in the last report, Table 1-B, of the Board of Control, being food and supplies for dairy, barn and poultry departments in the sum of \$8,723.93, and the item in the same table, Implements and Seed \$1,610.77, being a total of \$10,334.70, represent the cost of farm operation.

Penitentiary Building.

The administration building was erected in 1871. There have been no changes or improvements to it to speak of since that time. In the basement of this building is situated a guards' recreation room, an officers' barber shop, a milk and butter room, a churn room, a guards' lavatory, guards' dining room and storerooms.

On the first floor are the offices of the warden, the clerical force, the parole officer's quarters, a reception room, the turnkey room and the guard chapel room. The guards' chapel room is really the office of the inside working force. Extending from the chapel room are the cell houses. These are known as the North and South cell wings. The South cell wing contains 138 cells, as follows: Lower tier, west side 23; second tier, west side 23; third tier, west side 23; lower tier, east side 23; second tier, east side 23; third tier, east side 23, making the total 138. North wing—Lower tier, west side 22; second tier, west side 24; third tier, west side 24; fourth tier, west side 36 single cells; lower tier, east side 20; second tier, east side 24; third tier, east side 24; fourth tier, east side 24, total 198 cells. Dark cells, north end of fourth tier, north wing, 3. Cells in "Bull Pen," so called, 8, which makes a grand total of 347 cells.

These cells are either of brick or steel construction, the older ones being of brick reinforced with steel while the new ones are of steel. At the present the fourth or upper east and west tiers of the north wing are not in use, except the three dark cells, which are used occasionally. It is recommended that if dark cells are to be used in the future that their location should be isolated. The number of such unused cells is 60, 36 being double and 24 single. These 60 cells seem to have never been fully equipped. They are now being prepared for occupancy. The practice seems heretofore to have been to put two

men in a cell, but the plan of the present warden is to use the 60 cells, just mentioned, so that more men may be placed one to a cell. Dimensions of cells were taken in the south wing and are typical of all except the single cells in the upper tier of the north wing. The dimensions of the south wing cells are as follows: Lower tier, 8 feet 2 inches high; 6 feet 11 inches long; 5 feet 11 inches wide. Upper tier, 7 feet high; 9 feet long; 6 feet wide. The cell doors are of lattice flat strip steel construction from top to bottom with small lattice pass doors in the large doors. The cell doors are 5 feet 7 inches high and 22 inches wide. They have vertical flat bars $2\frac{1}{4}$ inches wide, $\frac{1}{4}$ inch thick. There are five vertical and seven horizontal bars to the cell door. The openings between the bars measure $8\frac{1}{2}$ inches horizontal and 3 inches vertical. The cells are locked by a slide bar lever system operated by levers in the guards' chapel room and with a padlock on each cell door. Each cell is equipped with running water and small sink. The men are not in their cells during the day, except Sundays and holidays. During the night the toilet requirements are provided for by metal soil pots with metal covers. The cell block type is what is known as the inside system; that is, the corridors are along the outer walls. These corridors are open from the floor to the roof. Light and ventilation are furnished by large windows in the east and west walls of the wings and light rays must cross the corridors and get into the cells through the cell doors. No cross circulation of air is provided. There are ventilators in the cells, but so stopped up as not to be serviceable. The cells have no windows. The cell wings are heated by steam radiators along the floor line of the corridors. The heat radiation is only about half enough to meet the heat loss on a cold day. As ventilation is dependent on open windows the result is that the upper cell tiers are apt to be too hot and the lower ones too cold. The ventilation being natural, but very few cells are furnished with the necessary 1800 cubic feet of fresh air per hour per man, which is the standard requirement. The cubic contents of the double cells is about 378 cubic feet. To give two men 1800 cubic feet per hour would require between nine and ten changes of air per hour, or between four and five per hour for one occupant.

The cell sink and soil pot system is a disgrace to the state and there should be substituted therefor modern and sanitary plumbing facilities so that each

cell could have a flush and properly trapped toilet. A better heating and ventilating system should be installed. Fresh air should be conveyed into the cells by mechanical means subject to inside adjustment. Modern prisons have such arrangements. They will be discussed more in detail in this report under the head of new construction and alterations needed and in our recommendations as to types of such new construction and alterations. The large windows in the corridors of the cell houses are barred. Where the cell houses meet the guard chapel walls are barred windows. The entire ground floor cell house corridors are visible from the guards' chapel room through these windows but only portions of the corridors of the upper tiers. Barred doors are placed between the guards' chapel and the cell wings. The turnkey's room is separated from the guards' chapel by a heavy wooden door, reinforced by steel. A steel cage forms a locked open corridor into guards' chapel. The dining room, the library and auditorium are in additions to the administration building and seem to have been built at some time subsequent thereto. Under the dining room is the kitchen and commissary department. Under the auditorium is the tailor shop and under the library and cell houses are various store rooms and supply houses. On the second floor of the administration building is the woman's prison. Here are found good sized rooms, not cells. There is also a small kitchen and the quarters for the matron in the woman's prison. The woman's prison is isolated from the rest of the prison.

Leading from the guards' chapel room is a stairway to the second floor. On this floor of the administration building and its additions are the hospital, the drug supply room, a hospital kitchen and a photographic room. There is a small surgery on this floor. In the north of the north wing cell block and a part of the north wing is the printing establishment. In the rear of the buildings are the inside grounds. Situated in these grounds are separate buildings containing within single or in combination the pumping and power plant, the laundry, the bath house and large industrial buildings. The industrial buildings contain the machine shop and the flax warehouse and machinery. An antiquated water tower is also situated on the inside grounds. An open power flume and race runs through the grounds. Within the grounds is a railroad spur track, connecting with outside railroad tracks.

The institution has an ice plant and cold storage facilities. Ice is sold to the other institutions and one compartment of the cold storage room provides for the cold storage requirements of the Tuberculosis Hospital, Feeble-Minded Institute, Girls' Industrial School and Boys' Training School. The cold storage plant seems to be in good condition and to meet present requirements.

The bath room is equipped with open showers, is antiquated and should be replaced.

The kitchen adjoins the commissary. The food for the main line, that is inmates, and guards' table is prepared in the same kitchen. The main line cooking is what may be called steam cooking, that is, most of the food is prepared by steam in large covered kettles. When the cooking operation is on the steam escapes from the kettle in large amounts and creates a heavy steam fog impregnated with a nauseating cooking odor. No means of ventilation is provided to carry off this escaping steam. In the kitchen is a cook range, known as the guards' range because the food for the guards dining room is prepared on this range and passed through a pass hole into the guards' dining room. Adjoining the kitchen is an antiquated bakery. When roasts are prepared for the main line, which is not often, it is necessary for the main line cooks to use the bake ovens at odd times. This operation requires roasting for one day prior to the time that the main line is to be furnished with the single meal containing the roasted article of food.

The cooking is done by inmate cooks; the head cook prepares the daily bill of fare and issues a requisition for the food supplies. These requisitions are checked by the commissary officer and he uses his judgment as to quantities required. A fair system of checking of quantities on hand and issued is maintained and is used to check daily and monthly consumption and balance on hand. Requisitions for all other supplies but food under the control of the commissary officer are O. K.'d by the warden. A segregation is made as to where table supplies go.

The system, above indicated, is bad for the reason that the food after it leaves the commissary is entirely in the hands and under the control of inmates. As is proper, the cooks for the guards' range get a better variety and quality of food for the guards' table, but as it is all cooked in the same kitchen with the main line cooking it sets a bad example and creates a tendency to pilfer food intended for the

guards' table by inmates. The commission finds that the guards' range now furnishes on an average the following: 50 employees, an average of 8 inmates of the hospital (it was 13 when the commission investigated it on this point), 3 main line inmate cooks, 3 guards' inmate cooks, 3 laundry trustees, 1 inmate runner, 1 inmate pot washer, 4 inmate bakers, 2 inmates from the pumping station, 2 inmates from the boiler room, 9 outside trustees and 3 women inmates, a total at the time we investigated this condition as follows: Employees, 50, inmates, 44; total, 94. There was also some testimony of 102 eating off guards' range.

The per capita food cost includes the expense of food for the warden's and deputy warden's houses, the guards' table and the main line. The per capita cost is 18 2-3 cents per day. This per capita makes no segregation between the warden's, deputy warden's, guards' and main line tables.

The following report from the commissary department will give an idea of the main line bill-of-fare for this season of the year and the operations of the commissary department:

1—Detailed ration list served to prisoners for a period of seven consecutive days:

Breakfast	Dinner	Supper
Mush and Milk	Vegetable Soup	Baked Beans
Brown Beans	Beef Hash	Peaches
Bread	Spaghetti and Cheese	Coffee Cake
Coffee	Pickles	Bread
	Bread	Tea
	Monday.	Lima Beans
Mush and Milk	Weiners	Rice
Brown Beans	Cabbage	Prunes
Bread	Gravy	Bread
Coffee	Potatoes	Tea
	Bread and Water	
	Tuesday.	
Mush and Milk	Beef Stew	Lima Beans
Brown Beans	Carrots	Cold Shaw
Bread	Bread	Sago
Coffee	Water	Bread and Tea
	Wednesday.	Baked Beans
Mush and Milk	Beef Hash	Honiny
Brown Beans	Spaghetti	Stewed Apples
Bread	Bread	Bread and Tea
Coffee	Water	
	Thursday.	Chili Concarne
Mush and Milk	Beef Stew	Rice
Brown Beans	Cabbage	Peaches
Bread	Bread	Bread and Tea
Coffee	Water	
	Friday.	White Beans
Mush and Milk	Baked Fish	Cold Shaw
Brown Beans	Dried Peas	Figs
Bread	Potatoes	Bread
Coffee	Gravy	Tea
	Bread and Water	
	Saturday.	Lima Beans
Mush and Milk	Beef Stew	Honiny
Brown Beans	Baked Carrots	Stewed Apples
Bread	Bread	Bread and Tea
Coffee	Water	

2—Prisoners employed outside receive the regular ration for dinner and supper, but for breakfast they are served beef stew in addition.

3—Prisoners engaged in indoor employment and those who are idle receive the same kind of food.

4—The trustees receive the same kind of food as those employed outside.

5—Convict cooks receive their food from the guards' range.

6—This office (the commissary) keeps a segregation of the amount of all supplies furnished guards' cooks and guards' dining room. Every morning requisitions are made on the commissary department for the supplies needed by the various departments during that day. These requisitions are then checked by the commissary officer and the supplies issued.

7—The per capita cost per day for subsistence is found by dividing the cost of food stuffs used in a given period by the number of convict days for the same period. The cost per meal can be found by dividing the per capita cost per day by three.

Our records of per capita are all figured on total cost of subsistence for the institution, including the guards' dining room, the warden's and deputy warden's cottages.

It is recommended that the state only furnish the warden and the deputy warden with houses for residence and inmate servants, instead of all supplies; that in lieu of furnishing supplies there be a reasonable increase in salaries of the warden and deputy warden. The commission makes this recommendation for the reason that it considers it good business and in no way wishes to reflect upon any warden or deputy warden.

During some of our visits through the cell houses prisoners were found having paper and kindling wood fires in their cells, using their metal night soil pots for stoves. Several explanations were given to us as the reason for this. One was that it was done so they might keep warm; another was that they cooked food, stolen from the guards' range; another was to warm up food taken from the main line fare at the time of leaving the table; and still another was that they made cocoa, bought from the commissary department.

In view of the above conditions it is recommended that the guards' be separated from the main line kitchen. This would prevent pilfering.

It is further recommended that the per capita cost of the warden's, deputy warden's and guards' range be computed separate. It has been variously estimated that a saving of from \$200 to \$400 per month could be made if the guards' range and the main line cooking be separated in the manner indicated by us.

It is further recommended that a better and larger baking oven and a range be installed in the main line kitchen. This would enable the same kind of food to be cooked in a variety of ways. An inspection of the bill of fare shows a lack of variety, especially for breakfast. This will be discussed by us elsewhere in this report on the subject of waste and diet.

It is also recommended that until the main line kitchen is removed to better quarters, which should

be done, that the present kitchen be equipped with positive mechanical ventilation.

During the day time the men that are not employed move about various parts of the yard. Some of them are confined to a portion of the yard, known as the Island. To reach this island one has to cross the water power race. Within the lines of the island during the day, unless the weather is wet, are found most of the idle men of the institution, except those who happen to be on the Bull Ring, in the dark cells or in the isolation cells. In wet weather these men congregate in some of the unused industrial buildings where they play Keno, Dominoes and other games. In cold weather the men are allowed to build fires on the Island to keep warm. In good weather will be found unemployed men, not confined to the Island, in other yard limits. Here they seem to pass away the time playing marbles. There is also an open front building of small dimensions known as the Dog House. In this the old men and convalescent men are allowed to congregate during the day. They have a stove, table and benches. They pass away the time in playing different games.

The Bull Ring is maintained as a means of punishment for infraction of discipline. The men placed on the Bull Ring are required to constantly walk this ring, except when it is raining, during the time the men are out of their cells and not at their meals. There was testimony before us to the effect that prisoners were sometimes made to walk this Bull Ring for months at a time. We found that men were placed on the ring either directly by the warden upon written reports of inside guards for infractions of discipline or by the inside guards directly without an order of the warden. In this last case, however, the guard's order is at once reported to the warden.

Other means of discipline as found by us were as follows: Confinement in the isolation cells (the Bull Pen so called) day and night on a bread and water diet or on main line diet. While in the isolation cells the prisoners are in suits of red and black stripes. They are given four pair of blankets in cold weather but have no mattresses. The heating provisions in the isolation cells are not sufficient to take care of the heat loss on a cold day. The prisoners in the isolation cells have found no difficulty in cutting the bolts with a hack saw.

As a means of discipline the prisoners for infractions are sometimes confined in the dungeons (dark

cells) on a bread and water diet. While in the dungeon the prisoners have no bed but are given blankets. They are sometimes handcuffed to the doors during the day. This is done by placing the arms above the head and chaining them so that they remain in that position. But they are released from this position to answer calls of nature. The present warden does not believe in the dungeon.

In his report found in the First Biennial Report of the Oregon State Board of Control, page 107, the then warden, B. K. Lawson, says: "Today the dungeon is never used." On the same page he also says: "At the present time we have a segregation ward, consisting of one part of the yard and a separate tier of cells, where we keep the degenerates and unruly separated from other inmates, but it is crude and inadequate, and I would suggest certain improvements and changes which will allow us to segregate entirely this element if they must remain in the state care."

We also understand it to be the view of the present warden that this element be entirely separated from the other inmates of the institution. These methods of punishment for infractions will receive consideration from us under the head of discipline.

We find that when a committed prisoner is delivered to the penitentiary he is placed in a receiving cell and shortly thereafter he is given a bath, his hair is cut but his head is not shaved, his civilian clothes are taken from him and he is given a prison uniform of gray, shoes, socks, cap and underwear. The civilian clothes he wore in, if not worn out, are steamed, renovated and cleaned in the tailor shop and given to any prisoner, about to be discharged, they might fit. A photograph of the new prisoner is taken and his Bertillon measurements noted. The prisoner is then given rules of discipline. He is then assigned either to work or to idleness in accordance with conditions and his qualifications. He then becomes what is called in prison parlance a "Fish."

The hours of meals and the time of locking up in their cells at night and letting them out in the morning is regulated by daylight conditions of the season of the year. The plan is that the inmates be in their cells for the night before dark and be not let out in the morning until daylight. At night all cell lights go out at 9 p. m. and the prisoners are counted every hour and a half. This counting is done by one of the chapel guards in alternating rounds of duty. The guard who does the counting

has an electric flash light and a pole of light bamboo, about 10 feet long. The other chapel guard remains in the chapel and turns on and off the cell lights by tiers during the progress of the count. The flash light is used as a means of signal between the guards, and the bamboo pole to touch a prisoner when his head is covered so as to make him move. There is much complaint among the inmates as to the turning on the cell lights and the use of the pole during the counts. This system was resorted to because at one time when an escape was planned and partly consummated the plotters got out of their cell and left a dummy covered with blankets in the cell bed. These dummies passed the guard counts. Between the night counts the night chapel guards sneak along the corridors of the cell wings to see that all is well, but there is always one in the chapel guard room. These night chapel guards have on felt soled shoes so that their approach might not be heard. After 9 p. m. the night chapel guards are locked inside the prison; they cannot get out except when the night turnkey in the outside or turnkey room lets them out. When a corridor is being patrolled the steel grating door between the cell wings and the chapel is closed and locked. There is no watchman clock or other mechanical means to check these night chapel guards. These guards have no telephone communication with the outside. The only means they have is to signal guards on the wall by switching on and off the electric lights in the chapel and cell corridors by a flash code which is observed by wall guards who in turn by a flash light communicate with the night turnkey. The night turnkey is stationed in the front yard. There is no watchman's clock or other mechanical check on the night turnkey or wall guards. There is a private telephone system to guard towers but we found it not to be in working order. During the night there are three wall guards on duty at the same time.

The outer walls of the penitentiary are about 15 feet high. At night they are lighted by a system of three cluster frosted globe electric lights, the object being to light the yard. The system is objectionable for two reasons: First, It does not give sufficient light at many points on the yard; second, Light is so thrown along the top of the wall that a guard, doing patrol duty on the wall walk, can be easily spotted from the yard. The patrol walk around the outer wall is on the outside of the wall about 30 inches below the top of the wall. On some sides

of the wall this walk has electric lights under it, the object being to furnish light so that any outside night approach may be seen. This under wall lighting system should be extended so as to cover all the outside wall space. We found that the guard towers on the outwall are in need of more or less repair.

As recommendations we suggest that a better lighting system be installed so that all points in the grounds within the walls may be illuminated. That the telephone system on the outer walls be put in working order and that a watchman clock system be installed on the outer walls and within the chapel guard room and that there be telephone communication within the chapel guard room.

We find that the blankets and mattresses, when in use, sterilized when taken from one inmate and given to another or before being stored for future use. At other times we find that they are sterilized once a year. We recommend that they be sterilized at least four times a year when used without change, and aired frequently during good weather.

Men were found whose teeth and others whose eyes were in need of attention. The men are not furnished tooth brushes, unless they buy them, but we find that the new warden has furnished glasses to some of the men.

We recommend that the state furnish tooth brushes, dental treatment and properly adjusted glasses without charge to those who cannot pay for the service.

One of the principal complaints of inmates was concerning the letter-writing privileges accorded them and the censorship of their letters. They have to furnish their own stamps. They are allowed to write one letter a month if single men or one a week if married. The letter must be confined to a single sheet of paper, written on one side only, and the top of this sheet has certain letter-writing rules printed in red ink as well as the identity of the penitentiary in black ink. All incoming and outgoing mail is censored. The return line on the envelope does not declare the identity of the penitentiary. In case of emergency more frequent letter writing is allowed in the discretion of the warden. Many of the single men ask for the privilege of more often letter writing and some ask that no outgoing mail be censored and the incoming mail be censored not as to contents of the letter, but only to ascertain whether or not the mail contains contraband.

While others want no censorship at all. The stamp account is taken care of by the inmate putting his number in the upper right hand corner of the envelope. When the letter goes out the stamp covers the number. In some other institutions we find that the stamp account is taken care of by writing the number on a small slip of paper, gummed along one end and perforated down the center. The number is written on this slip, gummed to the envelope, and when the account is audited the number removed by tearing down the perforated line.

The last report of the warden shows that there were 278 single men, 1 single woman, 155 married men, 3 married women, and 18 widowed men in those received during the biennium.

In some penal institutions the commission finds that no distinction in letter-writing privileges is made between the single and the married and that plain writing paper is used. The plan of such institutions seems to work well and is an aid to good discipline, because the letter-writing privilege is reduced for bad conduct. It seems, however, to require a separate clerk to handle and censor the mail. This requirement would probably arise if the penitentiary established the privilege, but the commission favors equality in the matter. It is therefore recommended that the mailing privilege be granted to all alike, that is, one a week, to be withheld only as a matter of discipline; that the writing paper be plain, but that only one sheet be allowed and writing be confined to one side of the paper only; that all incoming and outgoing mail be censored as at present, but that if outgoing mail be censored the letter be returned to the writer, and if incoming mail be excluded the addressee be notified of that fact.

The commission found some men with property rights on the outside that possibly might need attention. The commission understands the law to be, under the weight of authority, that a convict is not divested of his property rights and of his right of control concerning the same because of his imprisonment. The commission therefore recommends that in such cases provision be made by law for the Attorney General to safeguard their interests. This is particularly true of those who are criminals of passion, otherwise they have no criminal tendencies.

The commission found some complaint of vermin. This so in particular to the occupants of the brick cells. While it is almost next to impossible to entirely overcome vermin, especially in a brick cell,

we urge that more persistent attempt be made to keep the nuisance down. It could be kept under control by a bed bug squad as in other institutions, the use of steam jets and by cementing the walls of the brick cells. Labor is the most available article in the institution and some of it could be employed as a squad as above suggested.

Water Tower and Sewer System.

The water tower in the inside yard is regarded by the warden as dangerous as to its condition; it certainly looks to be in need of attention. The commission made an inspection of the sewer system of the penitentiary. It was found to be too small and not to have enough fall to promptly carry off the sewage. As the warden is a man of much experience in sanitary engineering the commission asked for the opinion of the warden on present conditions and his advice as to a remedy. He reports to us as follows:

"All sewers in and around the buildings are inadequate for the purpose intended.

"The line from the laundry and toilets has to be cleaned and flushed daily in order to keep it open at all. It is only a six-inch line and has very little grade.

"The lines to barns and outside toilets are about in the same condition.

"Would also call your attention to unsatisfactory toilet used by men in yard. This is just an open concrete trough with no seats.

"Would advise an entire new line to state sewer laid on a true grade and of ample size to handle all future requirements with branches and manholes to connect with present plumbing fixtures and new fixtures to replace concrete trough used at present by yard men."

It is therefore recommended that the water tower be rebuilt or repaired and that a proper sewer system be installed which shall be large enough to take care of present and reasonable future demands.

Present Employment of Prisoners.

The commission found the population and employment of the inmates of the penitentiary to be, on the two dates, November 1, 1915, and October 31, 1916, as follows:

	Nov. 1, 1915	Oct. 31, 1916
Cell house force	20	18
Commissary department (cooks, bakers, etc.)	40	51
Laundry	16	16
Tailor shop	14	15
Printing office	3	3
Shoe shop	6	5
Engineer's department	45	38

Industries—inside	20	30
Yard force inside	10	10
Hospital—attendants	4	2
Hospital—sick	15	11
Woman's ward	5	8
Gangs working outside under guard	52	45
Flax industries	35	50
Trusties outside—buildings and yards	8	43
Trusties on farm	32	12
Trusties on brickyard	15	8
Idle	155	76
In Clatsop county	14	17

It will be noted that the table gives the number of the idle on October 31, 1916, 76—while on November 1, 1915, the table gives the idle as 185. We have no means of telling about the number employed in 1915 but we do know that when the prison was investigated by us between November 14, 1916, and January 14, 1917, there were more idle than 76. The table may possibly be explained, however, by taking into account the fact some of those listed as employed seemed to perform but a nominal amount of daily work.

Present Industries.

The commission found the present industries to be as follows:

Flax Industry.—Aside from the harvest time, when the flax is pulled, there have been 35 to 60 prisoners employed in the spreading, drying, breaking, scutching, hackling and baling the flax. During the pulling season—about 60 days in July, August and September—from 150 to 160 are employed. All these men are paid 25 cents per day, and from November 1, 1915, to October 31, 1916, they were paid altogether the sum of \$6,482.85. The financial affairs of the flax industry are carried on directly at the office of the State Board of Control.

Shoe Department.—There are five prisoners employed most of the time and the result of their work will be found on the accompanying abstract. Whenever shoes are made for other state institutions, the men receive 25 per cent of the profit; that is, of the selling price with the price of the materials deducted. This 25 per cent is divided among the men. From November 1, 1915, to October 31, 1916, they received \$43.86. Most of their work is for the inmates, in making and mending, and for this no compensation is provided.

Clothing Department.—About 15 prisoners are employed. They are paid in the same manner as those in the shoe department, and during the period named have received the sum of \$124.36. The result of their work is also shown in an accompanying abstract. Their principal labor is in making and mend-

ing for the institution and no compensation for that is provided.

Printing Department.—Usually, three men are employed. They publish and print the prison magazine, Lend-A-Hand, and do the printing for the institution as well as that which may be required by other state institutions. In the latter case, they receive compensation on the same basis as the workers in the other departments above. During the period named, they received \$36.69.

Other sources of earnings for prisoners are jobs of various kinds done for other institutions or for counties, for which this institution is paid. In all such cases the men are paid 25 cents per day. The women prisoners are sometimes employed by the State Library Board in the cleaning and fixing of books and earn 25 cents per day each while so engaged. For these industries, the prisoners from November 1, 1915, to October 31, 1916, received \$227.63.

Under a contract with Clatsop county, from 14 to 20 prisoners have been employed there at a rock crusher and quarry. They receive 50 cents per day and are cared for.

With reference to the penitentiary brick and tile fund, sufficient data may be attained from the biennial report of the State Board of Control for 1917, pages 140 and 160.

The following data was obtained concerning the work done in the tailor shop, the average cost per unit and the total, together with the amount furnished other institutions. It is as follows:

Report of Work Done at Tailor Shop.

November 1, 1915, to October 31, 1916.

	Average cost per unit.	Total.
81 Coats, citizen	\$1.953	\$ 161.61
127 pair Pants, citizen	1.627	206.44
38 Vests .....	.608	23.10
239 Coats, convicts	1.517	262.57
435 pair Pants, convicts	1.408	612.48
161 Caps .....	.6665	10.72
213 Shirts, woolen	1.324	282.09
376 pair Overalls .....	.465	174.96
21 pair Overalls, bib .....	.563	11.82
63 pair Pants, white .....	.43	12.64
28 Jumpers .....	.585	36.96
63 pair Pants, white .....	.341	9.90
41 Aprons, white .....	.304	3.04
10 Aprons, carpenters .....	.137	15.31
11 Towels .....	.45	1.86
4 Coats, butchers .....	.19	5.13
27 Canvas lunks .....	.442	35.36
41 Mattresses .....	.473	21.76
46 Coats, white .....	.315	8.84
31 Pillow cases .....	.387	34.96
80 Sheets .....	.80	28.80
34 Bed ticks .....	.378	231.94
613 Shirts, summer .....	.35	15.75
45 Shirts, white .....	.287	6.88
1 Curtains .....	.139	7.26
24 Napkins, linen .....	.48	111.36
6 Table cloths, linen		
222 Jumpers for State Hospital		

444 pair Overalls for State Hospital.....	.85	244.20
100 Men's suits, complete, for Hospital.....	3.95	395.00
156 pair Overalls for Feeble Minded Institute.....	.55	85.80
72 Jumpers for Feeble Minded Institute.....	.48	34.56
19 Boys' suits for Feeble Minded Institute.....	1.81	34.39
100 2-piece Suits for E. O. State Hospital.....	1.098	109.80
51 Suits, complete, for Soldiers' Home.....	9.186	284.77
10 pair Suits, extra.....	3.947	126.30
		\$3,745.04

The following data was obtained concerning the work done in the shoe shop; the average cost per unit and the total, together with the amount furnished other institutions. It is as follows:

Report of Work Done at Shoe Shop.

November 1, 1915, to October 31, 1916.

	Average cost per unit.	Total.
115 pair New Shoes.....	\$2.108	\$ 466.16
1241 pair Shoes repaired.....	.3888	482.52
8 Gun holsters (for officers).....	1.125	9.00
2 Gun holster leathers (for officers).....	.50	1.00
7 Ankle braces.....		1.00
8 Auto straps.....	.2187	1.75
Repairing belt (flax mill).....		3.50
Repairing auto.....		1.50
72 pair Shoes for Feeble Minded Institute.....	2.50587	180.42
72 pair Shoes for E. O. State Hospital.....	2.50587	180.42
160 pair Shoes for Oregon State Hospital.....	2.50587	400.94
40 pair Shoes for Oregon State Hospital.....	2.70587	108.24
		\$1,836.45

The commission did not inspect the Clatsop county rock quarry, where there are now some 14 to 20 prisoners. No inspection was made for the reason that the quarry is under the jurisdiction of Clatsop county and in interviewing prisoners who had but recently returned from the camp maintained at the quarry, conditions seemed to be satisfactory.

The commission finds that the printing office of the penitentiary is poorly equipped for the work that it has to do, and in addition to printing the monthly prison paper, "Lend-A-Hand," the office does the simpler class of forms for the penitentiary, state hospital and the tuberculosis hospital. Three men are employed but they are not kept very busy.

The expenditure of \$500 would equip the penitentiary printing office to handle much of the work that is now being done at the state printing office, and which could be done at the institution at a considerable saving to the state.

The commission therefore recommends that the equipment of the penitentiary printing office be improved to the end that the inmate printers be kept busy and that such work for the various state institutions and state offices that can be handled at the penitentiary be diverted to that plant.

Shoe Shop.

The commission is of the opinion that of the present industries the shoe shop does not offer much of

a future prospect to furnish the other state institutional demands for shoes. Cheaper and better shoes can be and have been bought for the other state institutional needs in the open market. This is so because the shoe industry machinery, skilled operatives and minute division of labor have superseded handcraft. It is therefore recommended that the shoe shop be confined to repair work and the supplying of the penitentiary demands only.

Tailor Shop.

The possibilities of the tailor shop are better. In this field the industry is not so much dependent upon machinery and highly skilled machine operatives. If a better grade of material be furnished the commission sees no reason why this department cannot be developed to the extent of supplying most of the demands of other state institutions. It is therefore recommended that the annual demands of all state institutions for clothing be ascertained; that the facilities of the other state institutions for supplying clothing be taken into consideration; and that a non-competition field be apportioned to the penitentiary for the future development of the tailor shop.

Detail Concerning Flax Industry.

Of the present condition of the flax industry at the penitentiary and its possible future development the commission incorporates in its report a transcript of the oral testimony and a letter of Mr. Robert Crawford, superintendent of the flax industry at the institution. The same is as follows:

"I came here August 3, 1916, to take charge of the 1916 crop of flax and found everything upset. Am familiar with the flax business, having been raised in it near Belfast, Ireland. When I first came I found that 145 inmates were pulling the flax, much of it was bad as it was mixed with wild oats. At the Durbin farm the flax was bad that it was not worth the cost of pulling. I made a survey of all the farms and at the Russell farm only two acres were good and 50 acres not worth pulling. I found that between 175 to 180 acres had been pulled and I decided that the good acreage should be pulled first and the bad ones later. Carelessness in planting and a late spring, making the soil too mucky for seedling, had much to do with the bad flax. The fields had not been properly prepared and were seeded too soon after the rains. The growers were not instructed in the planting by the former superintendent. The contract with the farmer was that he

should plant the seed furnished by the state, the state to do the pulling and the farmer was to haul the crop to the prison warehouse. The state was to pay \$15 per ton for the flax less \$1.50 per bushel for the seed that the state had furnished. The inmates were allowed 25 cents per day for doing the pulling, of which there were four gangs of 35 men, each in charge of four guards and a foreman. Six escaped early in the season and two later. When there is over 50 per cent of weeds it does not pay to pull the flax even with convict labor. No machine has been invented that successfully pulls flax. It is pulled from the roots and is easy work. There was some controversy over the discount on bad flax fields and a farmers' meeting was held about it but all the farmers did well and some made not less than \$15 per acre.

"When the flax is ripe, from July 15 on, it is pulled, but can stand two or three weeks without injury. When the leaves begin to fall on the stock it is ripe. The puller pulls several handfuls and then ties it up and a number of these bundles are stacked together. It lays there for eight to ten days to ripen the straw and during this period rain does no harm unless it is long continued. The farmer then ties these small bundles up into larger bundles of sufficient size to be readily handled with binding twine and delivers it to the prison warehouse. Then it should be threshed as soon as possible and it is threshed by hand. The seed comes out in its raw state and then has to be cleaned by machinery. Our machines are good but of an old style. The demand for this seed is for oil, meal and seeding purposes. The remnant after the oil is extracted is fed to all kinds of stock. 776 bushels of seed was sold and there are 736 bushels left over. One car of seed was sold to the Portland Linseed Oil Company. A mill to handle 1,500 or 2,000 acres of flax would cost \$20,000. Flax seed is in demand and the flax industry is increasing. An inquiry for 2,500 bushels of seed has come from Ireland and also inquiry from Mexico. The preparation or development of the seed for oil purposes or seeding is different. Flax raised for oil seed should be sown 35 to 40 pounds per acre while two bushels when it is sown for fibre. The treatment makes the difference but the fibre flax is the more profitable. Rotation in seeding is necessary to keep up the grade. Our flax is not as good an average as in Ireland, as good flax is the result of care and knowledge of the soil.

Our land and climatic conditions are equal to Ireland or Belgium and unequalled flax can be produced here. Six men can pull an acre in a day if it is clean but not a quarter of an acre if it is dirty. The asylum farm had 20 acres in flax and it yielded two tons to the acre. In 1916 there were 622 acres seeded and from the crop we expect to get 6,000 bushels of seed. For 1917 so far 300 acres have been volunteered. With the present equipment we can care for 2,000 acres. Flax can run as high as four tons to the acre. The seed planted in 1916 was not good and only 80 pounds to the acre was allowed when it should have been 112 pounds to the acre. Working conditions in the plant are not bad but weak lungs should not be worked. After the threshing comes the retting (placing in water until fermentation sets in) and this separates the wood from the fibre. The retting lasts from 10 to 12 days. After retting it is dried by air and it is ready for the breaks in the mill. It is then run through scutches, which removes the woody substances. There are 40 scutching machines but they are not modern and up to date and there is too much machinery for present use. The flax is now ready for the market. Flax tow comes from the scutching process and the operator of the scutching machine has much to do with the quantity and here skilled or trained labor is necessary, but a good man can learn to operate one of these machines in a week. I have found that the inmates make good men in the work. The relative value of long fibre and tow is 26 cents per pound for the long fibre, f. o. b. Salem, while the tow is worth 8 to 10 cents per pound. In the eastern centers there are manufacturers of this product and the industry might be developed in Oregon but not at the penitentiary on account of labor conditions. Bleaching by nature is the best and the conditions for this are ideal in Oregon. Four free men pull one acre of flax in a day. From the 622 acres we secured 822 tons of flax. We have two retting tanks that cost \$150 each. Retting is really a summer job. Dry kilns to handle 1,000 acres, properly installed, would cost \$5,000, and then the work could proceed the year round. As the men became more experienced more could be accomplished. Dew retting is not satisfactory. 822 tons should produce 82 tons of long fibre, worth 25 cents per pound, and the tow produced would be 5 per cent money value of the fibre (\$43,050.00). The evaporation process is the best, as 85 degrees will spoil the fibre flax. With

the installation of the proper machinery all the inmates of the prison could be employed the year round and from 1,500 to 2,000 acres of flax would do this. Twenty-five cents per day and 50 cents per night could be paid the men. A graduated scale of wages for the different kinds of work could be adopted. Two tons is run through a scutching machine and six men operate a machine. If the work was done on the piece principle it would stop the dissatisfaction that an equal scale causes. If the industry was placed on a basis where all the inmates were employed the institution would be self supporting. The most satisfactory way to raise flax is for the farmer to plant and harvest it and be paid on the quality produced.

"Pursuant to request of your commission, I beg to submit estimates on enlarged flax industry in connection with the prison, based upon the growing of one thousand acres:

Number of men that could be employed.....	150
MARKETS—They are available for all products that can be produced.....	
VALUE OF PRODUCTS (10,000 bu. seed; 300 tons fibre; 100 tons tow).....	\$180,000.00
COST OF PRODUCTION:	
Amount paid farmers.....	45,000.00
Convict labor.....	11,700.00
Free labor.....	9,232.00
Machinery, general improvements, miscellaneous expense.....	15,000.00
New buildings.....	8,300.00
(Annex to present building, 50x112 feet, two stories, with corrugated iron roof on entire building, 120x248 feet, about \$1,500.00; new building, 60x248 feet, 18 ft. walls, about \$7,000.00)	
Net profit to state.....	\$ 89,232.00
	90,768.00
	\$180,000.00

"All estimates for 'wear and tear' can be deducted from the buildings and machinery, which will be on hand in addition to the above item of profit."

Discipline.

The commission finds that of the prisons visited by Mr. Brodie, of this commission, the Connecticut State Prison, the Detroit House of Correction, the Michigan State Prison, and Minnesota State Prison discipline is maintained by the granting or withholding of certain privileges under the grade system, while in Sing Sing the discipline of the institution is maintained by a self governing body established and maintained by the inmates themselves under the name of the "Mutual Welfare League."

The grade system provides for three grades of prisoners designated as First, Second and Third grades, together with a system of marks that shall transfer a prisoner from one grade to another in accordance with his conduct. At the Minnesota State

Prison, which is typical, all persons when they arrive at the prison enter the Second grade. They may earn nine credit marks each month and are marked on conduct, work and mental advancement. Promotion from Second to First grade is conditional upon earning fifty out of a possible fifty-four credit marks within six consecutive months. The loss of more than two marks in any one month shall cause the prisoner so offending to be reduced to the next lower grade. By a clean record of one month and the earning of nine credit marks the prisoner is advanced to the next upper grade.

Prisoners may lose their grades: First—By such violation of prison rules as shall necessarily subject them to solitary confinement. Second—For general disorderly conduct. Third—For habitual laziness, untidiness or negligence.

The first is the highest. Its garb consists of a neat gray suit and cap in winter and a khaki suit in summer, each having a chevron on the left arm.

First Grade prisoners are entitled to write one letter each week, to draw a ration (four ounces) of tobacco weekly and to receive visitors once in four weeks. They are furnished with a greater variety of food than are the prisoners in the other grades. They have also other privileges granted them from time to time as their general conduct warrants.

Second Grade prisoners are clothed in the same manner as those in the First Grade, excepting they wear no chevrons.

Third Grade men are dressed in striped clothing; they are allowed to have in their cells a Bible, a library catalogue and one good selected library book each week. All Third Grade prisoners are deprived of the following privileges allowed to the other grades: To receive visits from friends or write or receive letters except on matters of the greatest importance and then only by permission of the warden; they shall not be allowed to receive newspapers or tobacco, nor take their meals in the dining room, but shall be obliged to occupy and take their meals in cells set aside and designated as Third Grade cells; their food is plentiful and substantial but very plain and of less variety than that allowed Second Grade men; they receive no outside news of any kind, except by permission of the warden; and they may be further deprived of such other privileges from time to time as may be considered for the best interests of the grading and parole system.

The "Mutual Welfare League" as established in

Sing Sing is a self governing body of prisoners, composed of officers, delegates and committees. Delegates are elected in proportion of one delegate to every 35 men or fraction thereof in each shop or company. The board of delegates in turn elect, from their own number, a governing or executive board of nine members, the secretary and treasurer; all standing committees are appointed by the executive board and ratified by the board of delegates. The judiciary board is appointed by the executive board and appoints its own clerk. The warden, principal keeper and prison physician constitute a "Court of Appeals."

There is also a board of parole, a sergeant at arms, who is appointed by the executive board, and deputy and assistants sergeant at arms appointed by the sergeant at arms. The duties of the sergeant at arms and those appointed by him are to look after the law and order enforcement. The standing committees are chosen from the members of the League in good standing by the executive members of the committee and all the appointments are ratified by the board of delegates. Elections are held every four months. The standing committees of the League are as follows: Membership, Industry, Health, Educational, Athletic, Christian Science, Visitors, Entertainment, Music, Employment, Protestant Church, Jewish, Colored Church. There is a board of revision. The revision committee, appointed to change and revise the constitution and by-laws, consists of the following: Representatives from the board of delegates 3, from the executive board 2, from the judiciary board 2.

The discipline of the institution is maintained by giving the members of the League certain privileges, application for membership is passed upon by the membership committee. The sergeant at arms, deputy sergeant at arms and assistant sergeant at arms have control of and perform police duty. An inmate detected in a breach of discipline is arrested and brought before the inmate court. Here a trial takes place, witnesses are heard and the facts are investigated. In case of guilt the defendant is either found guilty or acquitted. If guilty he may have his sentence suspended with reprimand or he may be suspended from the privileges of the League for a fixed period or indefinitely. The judges of the inmate court wear wigs and black gowns. An inmate, sentenced by the inmate court, has the right of appeal to the Warden's Court. Of the Mutual Wel-

fare League Inmate Court, "The Bulletin," the official paper of the League, in the issue of November 27, 1916, says: "That the Inmate Court of the Mutual Welfare League has been a very busy institution will be readily gleaned from the accompanying notes of cases disposed of. As a deterrent to violation of the prison rules and the laws governing the inside community, the court has always exercised a stern, paternal attitude. Its decisions are rarely reversed by the higher court and it would be well for those, who once pass before it and receive judgment, to think twice before making an appeal from its decisions."

It thus appears that in all of the institutions, just considered, the deprivation of privileges is the ordinary means for the enforcement of discipline. By the grade method the conferring or withdrawing of privilege is within the discretion of the warden or other prison officials. While under the Welfare League plan the privileges are controlled by the inmates, subject to the supervision of prison officials under the appeal system.

Under the grade plan the system seems to concern itself entirely with prison conduct; while under the "Mutual Welfare League" plan attempt is made to better fit prisoners for the outside social conditions they will be confronted with upon liberation as well as endeavoring to maintain good prison conduct by putting prisoners on their own responsibility. The League plan does retain a supervisory power in the warden, however. We have not given all of the features of the "Mutual Welfare League" plan. We have dealt only with that part that concerns itself with discipline.

Of the two plans the commission recommends the experimental adoption of the "Mutual Welfare League" plan as far as it concerns discipline. If the plan be found workable, we think it possesses the merit of beginning a serious attempt to instill into the minds of prisoners the sense of responsibility that the individual owes to society; and thus alter the anti-social feeling of those who may misunderstand the objects of the existing social order. We recommend that it be only experimentally tried for the reason that the undoubted success of the plan, as followed in Sing Sing prison, may have been due to the peculiar talents of the man who conceived it, yet in justice to the plan it must be stated that it has not yet been displaced by Mr. Osborne's successors. Of the present discipline in the penitentiary

it may be stated that the use of the dark cells and bread and water diet, as a means of discipline, obtains in many of the best governed prisons of the country. If proper care be exercised in the application of its use, so that health is not impaired, we see no objection to their use in aggravated cases.

Of the walking of the so called "Bull Ring" as a means of punishment, it probably has been abused in the past. Undoubtedly men have been compelled to do too long assignments upon it, and the feet of some of the men have been made sore. Within moderation it is an effective and mild means of punishment. There is no objection to its use if the assignment be for a reasonable period and careful attention be paid to its effect upon the feet.

Diet.

The commission is of the opinion that the matter of diet for prisoners is of the greatest importance. It is now generally conceded that a balanced ration in public institutions is the most economical for the state—there can be no doubt about it. The cost of providing food for a healthy man is cheaper for the state than to provide food for a sick man, on hospital diet.

In the furnishing of food to the prisoners, it is not to be expected that the state will or can furnish the variety and choice of the markets. Prisoners should not be pampered. They are undergoing punishment and they should not be furnished with luxuries, or near luxuries, but as a matter of prime economy they should be fed on wholesome food of good quality. There should be variety, the food should be skilfully prepared and should be selected on account of its inherent cheapness, rather than its apparent cheapness.

The commission found that with some of the articles of food served to prisoners there was great waste. When we investigated it we found that about two-thirds of the beans and hominy placed on the tables was not eaten and went to the hogs. This was due to the fact that the men were served with these so often that they became tired of them and could not, or at least did not, eat them.

To prepare a bill of fare containing variety and proper nutrition requires the services of a skilled steward. At first blush this might seem to be but the addition of another official to the payroll. We are of the opinion, however, if a competent person be selected for such position, there would be a saving of what is now wasted to such an extent as to more

than take care of the expense required by virtue of the employment of such an official.

In its investigations the commission has found considerable reference on the part of prison officials, elsewhere, to the matter of prison diet. Nowhere, however, has the matter been discussed by prison officials with sufficient detail to furnish a basis of comparison of the diet in our penitentiary with that of other penitentiaries. The commission has therefore been forced to work out a basis for a dietary from general works dealing with that subject. If the treatment is elementary it is because the commission feels that there is a lack of popular understanding as to what should constitute a basic balanced ration. A good discussion of this principle is found in Tibbles' "Food and Hygiene." In substance he says:

Food is required to make up the losses of the body, to maintain the heat, to supply it with mechanical energy, to build up or repair the structure of the machinery as well as for growth and reproduction, simply the body is constructed out of food and by it is kept in repair. Food is, therefore, either a flesh former and repairer or it is a source of heat and energy.

The quantity of food required by a man for the purposes named has been variously estimated. The most satisfactory method of calculation is by ascertaining the amount of material excreted from the body under various circumstances. It has been found that a man doing ordinary work excretes 5,000 grains (about 10 ounces) of carbon and 500 grains (1 ounce) of nitrogen per day. Women excrete less of these substances than men, but children excrete more in proportion to their weight than adults—in old age however the amount falls considerably. The average excretion of nitrogen is reckoned as being 5 grammes per kilogramme or 7 grains for every 2 pounds of body weight. The excreted nitrogen is estimated in the form of urea, carbon as carbonic acid gas. The amount of urea excreted daily varies with circumstances, the average normal amount is 33 grammes or 500 grains, but when the diet consists wholly of proteid material it is 35, 50 or even 80 grammes per day. The amount is less however if the food consists entirely of carbohydrates and vegetables and it may then sink to 12 or 18 grammes, and when no food at all is taken urea is excreted to the extent of 10 grammes or 150 grains per day, which must be derived entirely from

wear and tear of the body tissues. Work or rest appear to have very little effect on the amount of urea excreted. During a period of rest very little less is excreted and during or soon after hard work there is only a slight rise above the normal amount, which is due to the disintegration of the tissues and shows that the daily depreciation by wear and tear of the machinery is not great when food is taken. It also shows that the real source of the energy used is derived from the carbohydrates and hydrocarbons, for the food for the amount of nitrogenous waste matter, which is excreted, is not at all adequate to account for the work performed.

A healthy man, doing ordinary work, requires more food, both proteid and carbohydrate, than the man at rest. It must be borne in mind, however, that even in cases of starvation, with absolute rest of the body, there is a wasting of the bodily tissues equivalent to 10 grammes or 150 grains of urea daily, whence it must be inferred that it is neither wise or safe to reduce the supply of proteid below the amount which will replace the tissues wasted to produce this minimum of urea.

Moleschott asserts that we cannot safely reduce the amount of proteid below what is required to supply 20 grammes or 300 grains of urea, which is excreted by a man during absolute rest.

The carbon in the body is derived from the carbohydrates and hydrocarbons of our food or stored in our tissues. The nutritive value of fat as compared with starch or other carbohydrates is 10 to 17, but the heat producing power of fat is to starch and similar foods as 9.3 to 4.1, and in calculating the amount for bodies of men it is usual to allow as much of these substances as will supply the carbon excreted in a day as carbonic acid gas, estimated as being 300 grammes or 4,500 to 5,000 grains.

Dietaries are usually arranged in agreement with the average excretion of nitrogen and carbon and the amount of these substances excreted during a period of absolute rest is 300 grains of urea and 4,500 grains of carbon is the minimum below which it is regarded as unsafe to reduce the foods to supply them.

Many investigators have made calculations by experiments of the amount of food required to supply these items, their object being to establish a nitrogenous equilibrium, to keep their weight constant, to establish a balance between the nitrogen in their food and that found in their excreta. These results

are highly interesting, but they show a variation in the dietaries, they also show that no hard and fast rule can be established for all men, although the tables are exceedingly useful in calculating dietaries for public institutions and bodies of men.

Moleschott found that a diet, which contains 120 grammes of proteid, 90 of fat, 330 of carbohydrates and 30 of salts per diem, best attained those objects for himself. Ranke found his health and weight were best maintained on a diet consisting of 100 grammes of proteid, 100 of fat, 240 of carbohydrates, 25 of salts and 2,600 of water per day. He also found that the required elements could be obtained from a simple diet of 17 ounces of meat, 14 of butter and other fat and 17 ounces of bread.

Parker found that a man doing ordinary work may obtain necessary carbon and nitrogen and maintain his weight and health from 9 ounces of meat, 2 ounces of butter and 28½ ounces of bread. He also gives a table showing the amount of dry food required for a man of average size and weight (150 lbs.)—1, For mere subsistence, that is, but enough food to do internal mechanical work of the body when at rest; 2, For ordinary work; 3, For laborious work. It is as follows:

	1	2	3
Proteids	2.02	4.502	6.502
Hydrocarbons .....	.5	3.5	4.0
Carbohydrates	12.0	14.0	17.0
Salts	0.5	1.0	1.3
Total	15.02	23.002	28.802

The above quantities represent absolutely dry food and as ordinary food contains 50 to 60 per cent of water they should be rather more than doubled when making calculations for any particular dietary.

Moleschott, when arranging a dietary for young active soldiers, allowed 130 grammes of proteid, 84 of fat, and 404 of carbohydrates per day to get his 130 grammes. To get his proteids, he allowed either of the following: Cheese 12½ ounces, lentils 17½ ounces, peas 20½ ounces, beef 21¼ ounces, eggs 34 ounces, wheaten bread 54 ounces, rice 90½ ounces, rye bread 100¼ ounces, potatoes 352 ounces. To get his 404 grammes of carbohydrates: cheese 71 ounces, lentils 28½ ounces, peas 29 ounces, beef 80 ounces, eggs 31¼ ounces, wheaten bread 24 ounces, rice 20 ounces, potatoes 73 ounces.

This shows that proteid is more economically obtained from meal, peas, beans, lentils, cheese and other nitrogenous foods, while the carbohydrates are so obtained from bread, rice, sage, potatoes and other starchy foods.

The advantages of a mixed diet are that it is the most economical and spares the organs, which are exercised in digesting the food and removing the debris. If bread alone were eaten it would require $4\frac{1}{2}$ pounds to obtain the 300 grammes of nitrogen which is considered the least amount which may safely be allowed, but this amount will contain 9,000 grains of carbon or double the amount required and would throw extra work on the digestive and eliminatory organs. If lean meat be taken alone $6\frac{1}{2}$ pounds must be consumed in order to obtain the 4 500 grains of carbon necessary to supply the daily amount of heat and energy, but this quantity would contain 1,350 grains of nitrogen, and consumption of so much meat, equal to one-twenty-sixth of the average weight of a man, would involve a great waste of nitrogen. Life cannot be economically maintained upon either of these substances alone.

Since the preparation of the first paragraphs of the commission's report on a balance diet, wherein it was stated that the commission had been unable to find a detailed discussion of a standard diet by prison officials, the commission has found such a diet, outlined by the medical department of the State Reformatory of Minnesota. It appears on pages 250 and 251 of the Seventh Biennial Report of the State Board of Control of Minnesota. The discussion is as follows:

"The diet upon a whole has been good, but I would recommend more of a variety. The essential elements of nutrition, proteids, carbohydrates and hydrocarbons, should be properly proportioned to avoid waste and to insure health. The following table shows the food value of staple articles of diet, and the quantity required per diem by an adult engaged at moderate muscular physical labor. It will guide to the preparation of food, preventing a deficiency or excess in the elements of nutrition.

"The custom of serving tea to the inmates as a beverage I consider injurious and I advise that it be discontinued. Tea has no nutritive value whatever. It tends to constipate the bowels and excites the nervous system."

The table is as follows:

STANDARD DIETARIES.

Food Materials	Amount Ounces	Total organic matter pounds	Proteids pounds	Fats pounds	Carbo- hydrates pounds	Food value calories.
Beef, round steak	13	0.26	0.14	0.12	...	695
Butter	3	0.16	...	0.16	...	680
Peas	6	0.17	0.02	...	0.15	320
Bread	22	0.89	0.12	0.02	0.75	1,700

	44	1.48	0.28	0.30	0.90	3,455
Pork, salt	4	0.21	...	0.21	...	880
Butter	2	0.11	...	0.11	...	450
Beans	16	0.84	0.23	0.02	0.59	1,615
Bread	8	0.33	0.04	0.01	0.28	640
	30	1.49	0.27	0.35	0.87	3,585
Beef, neck	10	0.19	0.10	0.09	...	550
Butter	1	0.05	...	0.05	...	225
Milk, 1 pint	16	0.13	0.04	0.04	0.05	325
Potatoes	16	0.17	0.02	...	0.15	320
Oatmeal	4	0.23	0.04	0.02	0.17	400
Bread	16	0.67	0.09	0.02	0.56	1,280
Sugar	3	0.19	...	...	0.19	845
	66	1.63	0.29	0.22	1.12	3,505
Beef, shoulder	10	0.22	0.09	0.13	...	800
Ham	6	0.19	0.06	0.13	...	650
Eggs (two)	3	0.05	0.03	0.02	...	435
Butter	2	0.11	...	0.11	...	450
Milk (1 pint)	16	0.13	0.04	...	0.05	325
Potatoes	12	0.12	0.01	...	0.11	240
Flour	9	0.44	0.05	0.01	0.38	825
Sugar	1	0.06	...	...	0.06	115
	59	1.32	0.28	0.44	0.66	3,540
Sausage	4	0.11	0.03	0.11	...	510
Cod fish	14	0.07	0.07	...	...	140
Butter	2	0.11	...	0.11	...	450
Milk (1 pint)	16	0.13	0.04	0.04	0.05	325
Beans	5	0.26	0.07	0.01	0.18	505
Rice	2	0.11	0.01	...	0.10	205
Potatoes	16	0.24	0.01	...	0.23	420
Bread	9	0.33	0.04	0.01	0.28	640
Sugar	3	0.19	...	...	0.19	845
	71	1.58	0.27	0.28	1.03	3,540
	55	1.88	0.28	0.36	0.64	3,205

The following is a bill of fare for one week in the Minnesota State Prison:

Beef	8	6.18	0.08	0.10	...	560
Mackerel, salt	4	0.08	0.04	0.04	...	230
Two eggs	3	0.05	0.03	0.02	...	135
Butter	2½	0.13	...	0.13	...	565
Cheese	1	0.04	0.02	0.02	...	103
Milk (1 pint)	16	0.13	0.04	0.04	0.05	325
Potatoes	8	0.09	0.01	...	0.08	160
Rice	2	0.11	0.01	...	0.10	205
Bread	9	0.38	0.05	0.01	0.32	720
Sugar	1½	0.69	...	...	0.09	175

PRISONERS' BILL OF FARE.

Minnesota State Prison

(Week ending December 16, 1916)

Sunday, December 10.

Breakfast—Boiled oats and milk, rolls, butter, syrup, coffee.
Dinner—Pork sausage, mashed potatoes, brown gravy, vermicelli, bread pickles.

Supper—Bread, cake, hot tea.

Monday, December 11.

Breakfast—Bacon, potatoes, brown gravy, coffee.
Dinner—Picnic ham, boiled potatoes, cabbage, brown gravy, bread, bread pudding.

Supper—Stewed beans, bread, hot tea.

Tuesday, December 12.

Breakfast—Beef and ham hash, steamed bread, syrup, bread, coffee.
Dinner—Boiled beef, pea soup, boiled potatoes, bread, pickles.
Supper—Boiled rice, fruit sauce, hot corn bread, bread, tea.

Wednesday, December 13.

Breakfast—Pork sausage, boiled potatoes, bread, coffee.
Dinner—Fried hamburger steak, boiled potatoes, string beans, brown gravy, pickled beets, bread.

Supper—Peach and apple sauce, bread, hot tea.

Thursday, December 14.

Breakfast—Boston baked pork and beans, syrup, bread, coffee.

Dinner—Mutton stew, carrots, potatoes, turnips, onions, bread, pickles.
 Supper—Boiled rice and fruit sauce, hot corn bread, bread, hot tea.
 Friday, December 15.
 Breakfast—Beef and ham hash, steamed bread, syrup, bread, coffee.
 Dinner—Roast beef, boiled potatoes, brown gravy, creamed carrots, bread.
 Supper—Prune sauce, bread, graham bread, hot tea.
 Saturday, December 16.
 Breakfast—Vienna sausage, boiled potatoes, bread, brown gravy, coffee.
 Dinner—Boiled salt pork, sauer kraut, boiled potatoes, brown gravy, bread.
 Supper—Fig sauce, bread, hot tea.

(Salt, pepper, vinegar and mustard are always on the table.)

On pages 102 to 128, inclusive, of the biennial report of the Board of Control and Officers of the Michigan State Prison, for the two years ending June 30, 1916, is given by days a menu used in that institution for an entire year. This report accompanies our report to your honorable body as a separate account.

The commission therefore recommends that a skilled steward, who is able to outline a balanced diet and direct cooks in the economical preparation of food, be employed. Also that sugar and whole-milk, rather than separated, milk be served as a part of the balanced diet; but when served with tea or coffee that sugar and milk be added to the beverage in the kitchen, rather than placing these articles on the table.

Penal Farm.

The members of this commission are not farmers. They cannot be expected to outline a practical farm program for the penitentiary. The discussion is therefore confined to a few questions that a practical farmer would not generally be familiar with.

In the first place the statutes of this state prohibit prison made goods being placed on sale in the open market in competition with the products of free labor. While there may be some doubt about it, probably the use of the word "goods" in the above connection would not prohibit the sale of farm products in the natural state. The use of the word "goods" in the above connection standing alone seems to mean articles carried by merchants as distinguished from farmers, for sale and sold by such merchants in the course of their business as such. See *Dyott vs. Letcher*, 29 Ky. 541 at 543; *Commonwealth vs. Gardner*, 133 Pa. 284 (19 Atl. R. p. 559). It is true, nevertheless, that most farm produce in the natural state is perishable, and that the market for perishable farm produce available to Salem is a limited one. This being so, the penitentiary, if it seeks a market for the products of its farm, must either raise non-perishable produce or resort to some

means to preserve the perishable produce. If it raise the non-perishable the market for the same is probably as limited as is the one for the perishable. If it be attempted to preserve the perishable it would have to be by the canning process. Undoubtedly the attempted sale of the canned product would be in violation of the law with reference to the sale of prison made goods in competition with those of free labor. The market for the penitentiary farm therefore would seem to be confined to state use. By state use we mean the furnishing of necessary articles of use and consumption to other state institutions. The same law that prohibits the sale of prison made goods in the market in competition with those of free labor, which is Sec. 10 of Chap. 78 of the Laws of 1913, provides for the state use plan; it is as follows: "In order to encourage industry and thereby increase productiveness of the several institutions, the board may prescribe rules and regulations for the sale and exchange of surplus products of each; provided, that the funds derived from the sale of the same shall be paid into the state treasury and become a part of a fund to be known as the 'State Industrial Betterment Fund,' which fund may be expended by said board for the benefit of the several institutions in proportion to the amount earned by each." With reference to the present penitentiary farm the state use plan has not been a success. Under it the sale of produce has been less than \$300 during the just passed biennial period. The reason for this lack of demand upon the part of the other state institutions is self evident. Every one of them, as shown by the last biennial report of the State Board of Control, has a well equipped farm of its own. That report shows that about the only article not produced in sufficient quantities for its own use at each institution and in the nature of a farm product that a penitentiary farm could furnish is butter. But the dairy herd of the penitentiary does not at the present time produce butter sufficient for its own annual needs. Those needs for butter also are not those of the rank and file of the inmates, for no butter is given them as we understand it. Therefore in our opinion if a penitentiary farm is to be put upon a profitable basis the first requisite is to repeal the law which prohibits the sale of prison made goods in the market in competition with those of free labor.

This commission recommends the repeal of this provision of the law; for it is unable to see how the

output of the penitentiary will materially affect either the consumption of the products of free labor or the wage level of free labor, provided the penitentiary output be sold either to the **jobbing or retail** trade at the prevailing market price. The trouble in this respect has been that under the convict lease system one manufacturer has had the advantage over his competitors of a low wage scale and used this wage scale to undersell his competitors. But the convict lease system is prohibited by law in this state. It is proper that it should be prohibited. It exploited convicts and created an unfair competition. But if the state sells at the market price its total output would be so small that the market would not be affected.

If, however, this prohibition of competition with the products of free labor is to remain on the statute books then the penitentiary farm should be confined to an output that shall supply its own institutional demands, or in connection therewith the demands of other state institutions. These demands seem to be for butter, but it must also be noted that some of the other state institutions at Salem are maintaining dairy herds.

On the side of the advantage of the use of penal farms as an agricultural pursuit, not allied with manufacturing of natural products raised on the farm, it may be said that it gives prisoners the benefit of an outdoor life and requires a relatively small amount of capital investment.

Its disadvantages are that a relatively small number of men are required to work a large penal farm. That it does not furnish an instruction for future occupations for prisoners, who by their social environment have become accustomed to urban life and whose reclamation to society requires that they be adjusted to their former environment.

The commission therefore recommends that the present penitentiary farm be operated to supply the general demands of that institution for farm produce. That the farm be properly drained, where needed, and that a greater consideration be given to producing butter and eggs and raising crops that will furnish the inmates, as well as the guards' table, vegetables of a positive food value and which possess lasting quality in storage, so that they may be available for table needs during the winter months when vegetables, butter and eggs are scarce and high priced. That more feed be raised; and that the herd be enlarged to the extent that the institution be not

compelled to buy butter in the market during certain seasons of the year, and that in addition thereto have enough milk to reasonably supply the inmates with wholesome milk in place of the separated milk now served, which has but slight food value. That cold storage facilities for butter and eggs and storage for vegetables be provided. And that the extension department of the Oregon Agricultural College be required to co-operate with the penitentiary in an advisory capacity to properly plan for the drainage, cultivation and management of the farm. That an attempt be made to develop the hog industry and more consideration be given to the raising of feed for that purpose, so that the institution will not be compelled to deplete its number of hogs for lack of food. That the state, as soon as practicable, seek to apportion the farming operations of each state institution so the penitentiary may develop the dairy business in sufficient volume to satisfy the state institutional demands.

Employment and Idleness.

In the discussion of idleness and the employment of prisoners the commission begs leave to enumerate the conclusions reached in the report of the special committee of the American Institute of Criminal Law and Criminology:

"First—All prisoners should be made to work by the state or community, which by imprisoning them has assumed control of their earning capacity, and it is therefore under obligation to this earning power for the best advantage of all concerned.

"Second—For labor, so performed, compensation should be given. In all cases of men imprisoned for non-support and in most others, where there are actual dependents, the dependent family of the prisoner is the primary beneficiary of the earnings.

"Third—Where there are any dependents and so far as is consistent with the claims of such dependents, where there are any, it is desirable that a fund of at least \$50 be accumulated out of the earnings of every prisoner, which shall be withheld until his release and to this end a detailed book account should be kept with every prisoner. Where there are no dependents a prisoner should not generally be paroled unless a fund, equal to \$50, had been accumulated by him under some system providing for compensation.

"Fourth—If through the criminal act of the prisoner the family of his victim has been made dependent, such family should at least receive equal con-

sideration with the dependent family of the prisoner.

"Fifth—When prisoners, receiving compensation, are paroled the compensation due should be paid to them under the direction of the parole officer, who should have power to supervise it.

"Sixth—In order to make effective compensation laws it is essential that prisoners be made self-supporting.

"Seventh—Prison boards should be allowed, under the law, to engage in work that will not only be lucrative but will best fit and equip the prisoner to earn a livelihood after their term of service has expired.

"Eighth—The operation of large farms, in connection with prisons and workhouses, not only produce the best financial returns to the state or municipality but is most conducive to health and good discipline among the prisoners.

"Ninth—Every prison board should be authorized to engage in permanent road making and should be permitted to select for this work persons who will be less likely to escape. All such should be compensated."

This commission recommends, however, if all prisoners are to be compensated, that they be required to pay either all or a portion of the cost of their apprehension and trial.

It will be noted that the recommendation Seven is to the effect that the prison board be allowed by law to engage in work that will not only be lucrative but will best fit and equip the prisoners to earn a livelihood after liberation. Thus we are again brought face to face with the law prohibiting prison made goods to be sold in competition with those of free labor. In the body of its report the committee, just referred to, says: "Wherever the grip of organized labor has been but partially relieved prisons have shown remarkable results. In the Stillwater prison of Minnesota in 1914 the output of its two leading industries—twines and farm machines—amounted to \$2,006,856. The state charged 75 cents per day for maintenance and gave each employed prisoner 25 cents per day and returned a clear profit to the state of \$685,794.17."

In the opinion of the commission no productive industry can be developed at the State Penitentiary as long as it cannot sell its output in the open market. While the Minnesota law does not prohibit the sale in the open market it is our understanding that much of the output of the Minnesota prison is sold in the

interstate trade. An agitation is now taking place to have Congress prohibit prison made goods in interstate commerce. If such a law should ever be passed it would seriously affect any prison industry depending for business upon interstate demand.

With reference to an industry for the employment of prisoners the commission recommends that the following factors be taken into consideration: (1) As any industry must have an experimental period the industry that requires the smallest initial plant investment per unit should be chosen, and the smallest number of units installed. (2) As labor is the most available article in the penitentiary, but as it is apt to be unskilled, the industry should be chosen that will employ profitably the largest amount of unskilled labor. (3) As labor, rather than machinery, should be employed in a penitentiary industry; that industry should be chosen that requires a relatively small amount of machinery and a relatively large amount of unskilled labor in its highest industrial development; for unskilled labor cannot hope to compete with products turned out by machinery, operated by skilled workmen. (4) An industry should be chosen that does not have to depend for the market or interstate trade.

Beyond this the commission does not feel that it can go into recommendations in regard to industrial employment; for it must be quite obvious that considering the many problems that this commission has had to take under consideration that the available two months was not sufficient to ascertain the feasibility of specific industrial enterprises for the employment of the inmates of the penitentiary.

The commission regrets that it has not had time to examine the possibilities of the utilization of prison labor in the quarrying and grinding of lime for fertilizing. The commission believes that the subject is worthy of investigation and the commission recommends that the State Board of Control give careful study to the possibilities of the subject.

New Buildings and Alterations.

Of the questions 4, 5 and 6 submitted to us by your honorable body, to-wit, as follows:

4—"Changes advisable in present buildings."

5—"The desirability of a new unit for segregation of the first offenders and the establishment of industrial education for them."

6—"The advisability of establishing the prison farther out in the country upon a larger tract of land, operated by prison labor, so as to make the

institution as near self-sustaining as possible."

Questions 4 and 5 contemplate the desirability of the construction of a new prison with an abandonment of the present institution; or the construction of a new unit to the present prison with alterations of the existing structures,—while the 6th question seems to contemplate the desirability of a penal farm. The penal farm and the question of prison labor will receive separate treatment in this report, but it may be stated here that in the opinion of the commission the grounds within the penitentiary walls and surrounding the penitentiary are sufficient for the construction of an entirely new prison, possessing in connection therewith any industrial development that could utilize prison labor. While if a penal farm, that will be self sustaining or nearly so, is thought advisable it should constitute one body of land and would require a greater tract than is now available within the penitentiary walls and in the state lands contiguous thereto. Either a new prison or a new unit to the present prison could provide for segregation.

The commission advises segregation but not along lines of segregation of first offenders. It recommends segregation of incorrigibles irrespective of the number of offenses committed by them. By incorrigibles it does not mean infractors of the rules of discipline but recidivists. For prisoners, not trustees, it is recommended that the cell system, with one man to the cell, be employed; for trustees the dormitory system be employed.

If the present penitentiary is to be used, with only the cell system, it should be altered so that it may have better hygienic and sanitary conditions. The alterations would require better heating facilities, ventilation within the cell, in accordance with standard requirements; and toilet provisions in each cell. But what is of as great importance there should be only one man to the cell. No possible alteration to the present cell houses could bring about all of these results. The present cell blocks are not sufficient to give each man a cell; and it may well be doubted even if toilets were installed, whether the cost of alterations and possible physical life of the buildings, as altered, would justify the necessary expense. Even if all this could be worked out, the prison would still have the inside cell system, a system not in accordance with modern practice. If the dormitory system for trustees be employed, the alterations would require the building in of floors

and partitions in the cell wings; the removal of cells and the rebuilding of windows in the outer walls; the establishing of hall entrances to wards as well as stairways. In addition to this, even if enough cells were left in one of the wings for all other prisoners, with one man to the cell, the cells would have to be remodeled to obtain better hygienic and sanitary conditions.

Again this arrangement would in no way provide a proper day time segregation between prisoners. In view of these facts it is recommended that plans and specifications be prepared for an entirely new prison to be located upon the state lands contiguous to the present penitentiary, but situated sufficiently far away from the outer walls of the present institution to in no way interfere with it as it now exists. That the proposed new institution be of fireproof construction, have the outside cell system with one man to the cell; that the cells be of re-inforced concrete construction rather than of brick or steel; that the cells be six feet wide, ten feet long and eight feet high and have either mechanical or natural cross ventilation, and that all prisoners but trustees be confined in cells. That trustees be provided with dormitory sleeping quarters and that complete segregation during day be arranged for in the plans of the new building and yard wall arrangements. That in other respects the plan of the Minnesota State Prison be followed. The ground covered by the Minnesota prison and industrial buildings, parade grounds, greenhouses and hospital is 22 acres, almost twice that within the walls of the Oregon penitentiary.

It is recommended that the new institution be constructed in units; but that a definite financial plan be provided by an annual tax levy, for six years, so that the entire prison can be completed within six years. It is also recommended that the first unit be the construction of a cell house and cells sufficient for the following purposes, to-wit: to provide the separate cell system so that by the use of the cells in the new unit and the cells in the present penitentiary each man will have a cell to himself. And that the incorrigibles be confined in the new cell unit.

Of the Minnesota prison it has been said: "The new prison is in line and abreast of the best thought on modern prison architecture, and is one of the best and most modern prisons in the United States if not in the world. The buildings are plain, sub-

stantial and comfortable and while all the laws and rules for obtaining the best hygienic and sanitary conditions have been carefully followed and all the buildings made strictly fireproof, there is no extravagance or unnecessary display. Most prisons in the United States have occupied and are now taking from 15 to 25 years in building. The best cost from three to four million dollars, and by the time they are through building, the prisons are old and out of date and cost much more than if built comprehensively and quickly, as has been done in Minnesota."

The only criticism we have to make of the Minnesota State Prison is its inside cell system. That prison officials of the Minnesota prison recognize the advantage of the outside cell system is evident from the report of the warden of that prison found in the last biennial (1915-1916) report of the prison. He says: "Our population at the close of this biennial period, July, 1916, is 996. The capacity of the prison is 1024 cells. Allowing for a reasonable increase in population it will seem that more cell room will be needed before the close of the next biennial period. I will, therefore, recommend an appropriation of \$200,000 for the construction of a modern fireproof cell block with a capacity of 250 cells of the 'outside cell type.'"

We understand that the reference to a modern fireproof cell block refers to the construction of a complete cell house of 250 cells. If this is so, the warden seems to estimate a cost for such construction of \$800 per cell or \$80,000 for a cell house containing 100 cells. As against this we give an estimate of Mr. W. C. Knighton, a Portland architect, who has in the past prepared plans for cell house construction at the Oregon penitentiary. He says: "The following is a safe estimate for cell house to hold 96 persons, also estimate for steel cells, plumbing, heating and electric wiring. Cells two tiers in height and each to contain two persons:

Reinforced cell house 42x110.....	\$30,000.00
48 cells installed in place at \$500 each.....	24,000.00
Plumbing.....	3,840.00
Heating, ventilating, electric wiring.....	4,500.00
	<hr/> \$62,340.00

It will be noticed that Mr. Knighton's estimate is for a two men to the cell construction.

Dormitory Construction.

As suggested in the plan for the new prison we recommended dormitory construction for trustees. That we are within safe lines for so doing we beg

to cite the following from the June 30th, 1916, report of the Board of Control and Officers of the Michigan State Prison, page 61: "The most important work undertaken during the biennial period was the building of the new dormitory authorized by the legislature of 1915. This dormitory is now almost completed and all the work involving brick, cement and steel construction is being done by inmates. From the first line of the blue prints to the laying of the last shingle on the roof and the construction of the last piece of furniture in the rooms the building is entirely the product of inmate labor. The plumbing, steam fitting, electric wiring, plastering, painting and in fact all of the work is done without the assistance of outside labor.

"This dormitory is a new departure in prison construction. It follows the plan of college dormitories, being divided into rooms and having no cells. There will be sixty-four rooms, 16x27 feet on four floors. The first three floors will be used as apartments for inmates, and the upper floor as school rooms. Each of the rooms on the three lower floors will accommodate eight men and will be equipped with reading table, shower bath, single beds and everything necessary for comfort and sanitation. Here the inmates will be relieved from the usual confinement in prison cells and required to carry out every detail of rules and regulations adopted for the government of the dormitory, without the presence of an officer. In this way he will be taught to assume, to some extent, the responsibilities of directing his own actions, and as he will have more freedom than under the old system, he will learn by association with his fellow men, better than he ever could in solitude, the lessons necessary for a successful life when released."

Plan for Automatic Financial Provision for Repairs.

The commission recommends that a careful plan for ascertaining the probable physical and economic life of any buildings that might be constructed be followed, and that the time and amount of future repairs during that probable life of such construction be computed. It is urged that such plan be devised and such computation made at the time of the preparation of plans and specifications for new construction. Based upon such data it is urged that a fund be created by fixed annual contributions thereto. That this fund be amortized in such a manner that when a repair will be needed there will automatically be sufficient money to make the repair. This scheme contemplates an ascertainment of the life of the com-

ponent parts of the structure. The ascertainment of the time beyond which the cost of repairs would not be justified; and the application of compound interest in the building up of the repair fund. Such a plan has been evolved by R. P. Bolton and of it he says, on page 56 of his book, "Building for Profit":

"The essential feature in defining a method for arriving at the period of physical existence appears to be the segregation of the elements which compose the building, the assignment to each of a reasonably effective existence, and the ascertainment by a comparison of either the extent or the value of each element, of an average life of the whole combination.

"Such a comparison will define very clearly the endurance of the parts which go to make the structure a whole, and will make clear the extent or number of occurrences of repair or renewal which can be expected to be required within the period which may be found to be that due to the most durable and least frequently repaired portion."

On page 59 he says: "The evident harmony of this system is apparent, and results in the method herein advanced for the determination of average life, viz: to relate the cost values to the existence of each individual material or component of a structure, and therefrom to deduce the financial mean term of the whole, which is the period of physical deterioration to be covered by financial provision or sinking fund for its amortization.

"The method involves the assignment of maximum longevity to the most durable elements of the combination, to which the less durable may be related."

By this method Bolton found the life of the most durable part to be as follows:

In the cheapest frame construction	40 to 50 years
In good frame construction	45 to 55 years
In brick and wood construction	55 to 66 years
In steel-brick-terra-cotta or stone	66 to 75 years
In reinforced concrete	75 to 100 years
In most massive forms of a single material	90 to 100 years

We also give his tables "B" and "C," the use of which will enable one to ascertain the mean life of the structure and how often component parts will have to be renewed during that mean life.

RELATIVE LIFE OF THE COMPONENT PARTS OF BUILDING.

I. Good Frame Construction.

Life of most durable part equals 45-55 years or 100 per cent.

Years.	Material.	Relative to 45-55 years	Per cent.
45-55	Masonry	100	100
45	Exterior brickwork	100	82
44	Brick flues	99	80
41	Lumber framing	90	75
39	Studding	86	70
33	Mill work	73	60

33	Sheathing	73	60
27	Exterior woodwork	60	49
13	Shingles	30	24
25	Floors and stairs	55	45
30	Hardwood trim	66	54
33	Plastering	75	60
29	Hardware	44	36
30	Tinwork	66	54
20	Exterior ironwork	44	36
6	Exterior paint	13	11
9	Decoration and varnish	20	17
18	Fixtures	40	34

Life of most durable part equals 55-60 years or 100 per cent.

Years.	Material.	Relative to 55-60 years	Per cent.
55-60	Most durable part	100	100
55	Exterior brick	96	80
53	Brick flues	96	80
50	Lumber	90	75
49	Studding	72	61
33	Mill work	60	50
27	Exterior woodwork	49	41
27	Roofing slag	49	41
33	Roofing tile	60	50
27	Flooring and stairs	49	41
55	Trim	66	50
33	Plastering	60	50
20	Hardware	36	30
30	Ornamental ironwork	54	45
29	Exterior ironwork	36	30
6	Exterior paint	11	9
10	Decoration and varnish	18	15
20	Fixtures	36	30

III. Modern Fireproof Construction.

Life of most durable part equals 66-75 years or 100 per cent.

Years.	Material.	Relative to 66-75 years	Per cent.
66-75	Most durable part	100	100
65	Exterior cut stone	68	60
60	Exterior brick	91	80
60	Exterior terra-cotta	91	80
66	Interior masonry	100	88
40	Interior cut stone	61	53
36	Interior marbles	54	48
30	Plastering, plain	54	48
30	Plastering, decorative	45	40
27	Stone flooring	41	36
24	Wood flooring	36	32
50	Stairs and steps	45	40
27	Roofing slag	41	36
27	Roofing tile	61	53
49	Partition	70	61
46	Joinery	70	61
50	Interior ironwork	76	66
22	Exterior ironwork	33	29
15	Window mill work	68	60
19	Hardwood trim	61	53
9	Glass	14	12
9	Interior decoration	14	12
20	Exterior woodwork	30	27
25	Hardware	27	23
20	Sidewalks	30	26
24	Roof houses	36	32
27	Tanks	41	36
30	Plumbing, fixtures	30	26
33	Lighting fixtures	30	26
33	Piping	50	44
20	Elevator	30	26
7	Point	10	9

METHOD OF ASCERTAINING MEAN LIFE OF A BUILDING.

Example of a Steel-frame Fireproof Office Building.

Material.	Life relative to 66 years	Cost relative to total cost of building	L X C
	Per cent.	Per cent.	

Foundations	100	5.3	530.0
Steel framing	100	7.6	760.0
Masonry	100	33.7	3370.0
Fireproof floors	100	2.0	200.0
Ornamental iron	73	6.3	459.9
Heating	50	3.3	165.0
Pumbing	30	1.5	75.0
Electric wiring	50	2.0	100.0
Partitions	70	1.2	84.0
Joinery	70	3.4	238.0
Sixsters (plumbing)	29	12.6	365.4
Roofing (tile)	59	2.0	118.0
Plastering	54	3.8	205.2
Marble	54	9.6	518.4
Elevator	30	3.1	93.0
Hardware	37	0.5	18.5
Glass	14	1.3	18.2
Paint	10	0.8	8.0
Total .....	..	100	7327.6

Means ——— equals 73.276 per cent of 66 years, or a mean life of 100
48.36 years.

Separate Board for Management of Penitentiary.

On page 20 of the second (1917) biennial report of the Oregon State Board of Control it stated that, "The State Penitentiary is in a class by itself." With this statement this commission is in most hearty accord. The questions concerning the penitentiary are so numerous and complex that it seems to us that administrative solution and application requires that the control of the institution be separated from the administrative problems of other state institutions. The numerous and exacting demands of the other state institutions, now under the control and supervision of the State Board of Control, leaves but little time for the members of the board to concentrate their attention upon the affairs of the State Penitentiary to the extent of the inauguration of a new system of penology. Again, it must be remembered that each member of the Board of Control has executive and administrative duties to perform under the state constitution. Under no existing conditions could the Board of Control or its individual members have concentrated their attention to the problems of the penitentiary to the extent that this commission has done during the past two months; yet the work of this commission represents but a beginning in a comprehensive constructive program.

Therefore, in consideration of the above facts: It is recommended that the complete control of the penitentiary be vested in a civilian non-salaried board of three members. We are not without precedent in this recommendation; we find that some of the best governed prisons—those employing the new penology—to be so governed. We further recommend that the proposed board be appointed by the Governor. He is the state's chief executive and as

such should not be deprived of his usual prerogative of appointment. Also the people of the state are entitled to the application of the principle of single responsibility for appointments to public office. We further recommend that the members of the board have a fixed tenure of office with individual terms expiring at different times.

The value of such an arrangement is that the prison policy would possess stability and at the same time would be capable of being gradually adjusted to any future policy that might merit recognition.

We recommend that the term of each member be for six years, excepting that at the time of the organization of the board that the Governor appoint one member for a two year term, another for a four year term and the other for the full six year term, and that the members of the board receive a \$5.00 per diem compensation and expenses and be required to meet at least once a month.

Supervision of Religious and Educational Work.

The commission is of the opinion that the present law providing for the attending to the spiritual wants of the inmates of the penitentiary by two chaplains, one a non-Catholic and the other a Catholic, is about as good an arrangement as can be obtained. The Christian religion has in its fundamental tenets divided itself into the Protestant and Catholic branches. Numerous inmates of the penitentiary profess to have embraced the one or the other of these branches. As we understand it by the rules of the Board of Control there is provision for religious services at the penitentiary by denominational ministers of faith other than that of the Protestant chaplain.

The commission does recommend, however, that equal recognition be given to religious teachings in the penitentiary to the extent that such teachings be considered a part of the necessary means to accomplish the reformation of the inmates.

The commission finds that since the fire of May, 1916, which destroyed the building in which the penitentiary school was conducted, that there has been no accommodations for school work and no such work undertaken.

The commission recommends that school accommodations be at once provided, that a common school course be outlined and supervised, either by the State Superintendent of Public Instruction or the School Superintendent of Marion County; that civilian teacher be employed, and that where possible

inmates, who are qualified, be assigned to school instruction work. That all inmates unable to read and write be required to at least take instruction in these branches. That vocational training be established in so far as it is possible to do so; and that a competent teacher versed in several lines of vocational teaching be employed.

The reason for the above recommendation is that by common school and vocational training inmates of the penitentiary are, when liberated, better qualified to adjust themselves to the economic conditions with which they will be confronted.

The commission recommends that the warden be required to establish compulsory military training and calisthenics for the inmates of the penitentiary. By this means respect for authority would be emphasized, health promoted, idleness reduced and a better compliance with discipline obtained. A flag pole and flag should be placed within the grounds of the inner prison and military ceremony be observed in reference thereto. Inside officials, except the warden, should be in uniform, and inmates should be required to salute prison officials.

Vice.

From all quarters there came to the commission testimony of the existence of vice among inmates in the penitentiary. It seems to exist in alarming proportions. It is agreed that for the most part it is the result of the two men to the cell system.

In the opinion of the commission vice cannot be controlled as long as the two men to the cell system obtains. It is therefore most urgently recommended that immediate steps be taken to provide, at the earliest possible moment, the one man to the cell system. This would not apply to trustees if placed in dormitory rooms, containing at least six or eight men each.

With reference to vice in the institution we find some cases of what seem to be congenital homo-sexuality; such cases are not those of vice, they represent a pathological condition. Of this condition, in a recent work, Bernard S. Talmey, M. D., says: "The homo-sexual feeling is an abnormal congenital manifestation of the cerebral part of the vita sexualis. The essential feature of the manifestation is the want of sexual sensibility for the opposite sex, even to the extent of being inspired with horror of it. This disease must not be confounded with vice. Perversity is not perversion. Sexual acts with the same sex are not proof of the presence of real

perversion.

"Homo-sexuality is prevalent in boarding schools and colleges of both sexes, yet very few or none of these boys or girls are real inverters. Perverse acts occur when obstacles are in the way of natural sexual satisfaction. When the obstacles are removed the individuals return to normal sexual functions."

Again he says: "Sometimes, however, functional retrogression or atavistic recurrence in earlier hermaphroditic forms of the animal kingdom may take place, or traces of the conquered sexuality, at least so far as the mental characteristics are concerned, may remain; and it is these that provoke the manifestations of inverted sexuality. Individuals, thus affected, have a sexually abnormal instinct, which is out of harmony with the physical sex and its role in the function of procreation."

We therefore suggest that in cases of congenital homo-sexuality in the penitentiary, ordinary punishment is of no avail. That isolation has no correctional value, other than that of segregation. In such cases and in cases of incest and in all cases where the sex abnormality has manifested itself in criminal tendency we recommend a well guarded law, providing for castration. We regard simple sterilization or the slight operation of vasectomy as of value only to prevent procreation. It should be indicated for the feeble minded, but for those of pronounced criminal tendency as the result of sex abnormality it is not sufficient. On these points Talmey says, referring to sterilization: "This small operation has no more effect upon a person, in regard to his potency, than an obliteration of the vas deferens in the male or the fallopian tube in the female; and these obliterations cause so little inconvenience that they remain, as a rule, unknown to the man or woman. They are only accidentally discovered when the patients apply for the treatment of their sterility."

Of castration he says: "Sterilization does not deprive the individual of his desire for congress nor the ability to perform the same, nor of the faculty of experiencing libido. Hence the murderous and erotically degenerated criminal classes will remain a menace to society until they are deprived, not only of the potency of procreation but also the potency concerning and of experiencing libido. The method of castration, therefore, should be reserved as a penalty for the outspoken, habitual brutal criminal, the rapist, the confirmed inebriate,

the incorrigible burglar or gunman, the gibbering idiot, or imbecile cretin with inherited tendency to crime, and the unstable erotopath."

In concluding this report the commission takes this opportunity of expressing its appreciation for courtesies extended, either to it or some of its members, by the following: Acting Warden Derriek, Sing Sing Prison, New York; Warden Ward A. Garner, Connecticut State Prison, Hartford, Conn.; Warden Jacob, Detroit House of Correction, Detroit, Mich.; Warden Nathan B. Simpson, Michigan State Prison, Jackson, Mich.; Warden Zimmer, Illinois State Prison, Joliet, Ill.; Warden C. S. Reed, Minnesota State Prison, Stillwater, Minn.; Captain Stoll, Chicago Detention Home, Chicago, Ill.; The President of the Parole Board and the Parole Officer of the State of Minnesota; Mr. George A. Thacher, Portland, Oregon; The Portland Public Library, Portland, Oregon; Woodard-Clarke Drug Company, Portland, Oregon; Mr. Edward Lindsay, chairman of Committee "F" of the Institute of Criminal Law and Criminology, Warren, Pa., and Mr. W. C. Knighton, A. I. A., Portland, Oregon.

Respectfully submitted,

L. J. WENTWORTH,
E. E. BRODIE,
F. W. MULKEY, Chairman.

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TITLE**